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VOLUME: I  
PAGES: 1-220

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 02-10062-DPW

\*\*\*\*\*

LINCOLN E. SMITH, )  
Plaintiff )

vs. )

CITY OF BOSTON, BOSTON )  
INSPECTIONAL SERVICES, and )  
KEVIN JOYCE (AS COMMISSIONER,) )  
DEPARTMENT OF INSPECTIONAL )  
SERVICES, AND INDIVIDUALLY,) )  
Defendants )

\*\*\*\*\*

DEPOSITION OF LINCOLN E. SMITH, a witness  
called on behalf of the Defendant, pursuant  
to the Federal Rules of Civil Procedure,  
before Kelly G. Patterson, a Notary Public  
in and for the Commonwealth of  
Massachusetts, at the City of Boston Law  
Department, Boston City Hall, Boston,  
Massachusetts, on Thursday, February, 12,  
2004, commencing at 9:25 a.m.

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## EXHIBITS

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7	Boston Globe article dated December 29, 2000. 149
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## APPEARANCES:

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for the Plaintiff;

CITY OF BOSTON  
LAW DEPARTMENT  
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for the Defendant.

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## STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED by  
and between counsel for the respective  
parties that the Witness will read and sign  
the deposition transcript under the pains  
and penalties of perjury; and that the  
reading and signing is deemed waived if not  
accomplished within 30 days of transcript  
delivery.

It is further stipulated and agreed  
that all objections, except as to the form  
of the questions, and motions to strike will  
be reserved until the time of trial or  
pretrial hearing.

\* \* \* \* \*

LINCOLN E. SMITH, a witness  
called for examination by counsel for the  
Defendant, having been duly sworn, testified  
as follows:

## DIRECT EXAMINATION

(By Mr. Chernetsky)

Q. Good morning, Mr. Smith.

A. Good morning. How are you?

Q. I'm very good, thank you. Thanks for coming

1 (Pages 1 to 4)

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1 by today. Just to start out the formality  
 2 we'll have you state your name for the  
 3 record.  
 4 A. My name is Lincoln Smith.  
 5 Q. In the course of arranging for the  
 6 deposition today some of your attorney's  
 7 staff told me you might have an issue today  
 8 of picking up your mother at the airport  
 9 today. Does that remain a problem as far as  
 10 the deposition goes?  
 11 A. No, it's late afternoon.  
 12 Q. Okay. I take it you've been deposed before  
 13 today, correct?  
 14 A. Yes.  
 15 Q. Even so, probably it just bears repeating  
 16 some of the things we need to be conscious  
 17 of as we do this today. As you're well  
 18 aware we have a court reporter with us who  
 19 is here to make a good clean record of what  
 20 we say here and we need to be cognizant of  
 21 things that we do in normal conversation  
 22 like we had before we started which can make  
 23 it difficult for her, and we want to avoid  
 24 those things, and examples are just there's

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1 going to be times when everyone in the room  
 2 knows exactly what my question is when I'm  
 3 only two or three words into it and you will  
 4 attempt to try answering, but that will make  
 5 it hard for her, so try to wait until I'm  
 6 done before you begin answering and I'll try  
 7 to do the same and make sure that I have  
 8 your whole answer out before I move on to  
 9 the next question. Try to be mindful of  
 10 making verbal answers and being mindful that  
 11 she can't record a nod of the head and  
 12 things like "Uh-huh" and so forth, so try to  
 13 answer yes and no when appropriate. If you  
 14 don't understand a question that I ask you  
 15 just let me know that and I'll try to make a  
 16 better question that is understandable,  
 17 because if you don't tell me that you don't  
 18 understand we're all going to think that you  
 19 understood the question and record your  
 20 answer appropriately, so just let me know  
 21 and I'll try to do better. If you need to  
 22 take a break at any point today, if you need  
 23 to use the men's room or anything like that,  
 24 you need to talk to your attorney, just let

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1 me know and we'll do that, as long as  
 2 there's no question pending. Does that all  
 3 make sense and seem fair?  
 4 A. Yes, it does.  
 5 Q. Are you on any medications or anything which  
 6 would impair your ability to remember past  
 7 events or to give truthful and complete  
 8 answers today?  
 9 A. No.  
 10 Q. What is your present residential address?  
 11 A. No. 6 Willis Street in Dorchester.  
 12 Q. Was that the same at the time of the  
 13 incidents in December of 2000 which form the  
 14 basis of this complaint?  
 15 A. Yes.  
 16 Q. How long have you lived at Willis Street?  
 17 A. Twenty-plus years.  
 18 Q. Did you grow up here in Boston, in  
 19 Dorchester?  
 20 A. Yes.  
 21 Q. Have you ever resided anywhere else but  
 22 Boston?  
 23 A. Yes.  
 24 Q. Where is that?

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1 A. I grew up in Roxbury, moved to Dorchester --  
 2 I mean, how many years do you want me to go  
 3 back?  
 4 Q. Have you lived outside of the Boston area at  
 5 all throughout your life?  
 6 A. Boston proper?  
 7 Q. Right. Well all of the places you've  
 8 mentioned so far are Boston, right?  
 9 A. Right. Well my family moved to Weymouth.  
 10 Q. You haven't left the state?  
 11 A. No.  
 12 Q. Tell me a little bit about your educational  
 13 background. What's the highest level of  
 14 education that you completed?  
 15 A. I have a Master's of Science degree in  
 16 administration and planning from  
 17 Northeastern University.  
 18 Q. What year did you earn that degree?  
 19 A. 1982.  
 20 Q. What fields of study are involved in  
 21 administrative planning?  
 22 A. Then, statistical analysis, projections,  
 23 research.  
 24 Q. You said "then," so is there something

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1 different today, the field has evolved?  
 2 A. I don't know honestly, it's going back to  
 3 '82.  
 4 Q. What was your undergraduate degree?  
 5 A. Criminal justice.  
 6 Q. Was that also from Northeastern University?  
 7 A. Yes.  
 8 Q. What year was that?  
 9 A. 1980.  
 10 Q. So you went straight from your undergraduate  
 11 career to the master's program?  
 12 A. Yes.  
 13 Q. Where did you go to high school?  
 14 A. Weymouth South High School.  
 15 Q. What year did you graduate from there?  
 16 A. 1975.  
 17 Q. Was there a break then between high school  
 18 and beginning your studies at Northeastern?  
 19 A. No.  
 20 Q. You graduated from high school in 1975 and  
 21 Northeastern in 1980?  
 22 A. Correct. It's a five-year co-op program.  
 23 Q. Right. Northeastern does a lot of real work  
 24 experience as a part of their undergraduate?

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1 A. Correct.  
 2 Q. Well I guess four isn't typical anymore. It  
 3 used to be. What did you do after you  
 4 completed your master's degree?  
 5 A. I worked at Northeastern while obtaining my  
 6 graduate studies and then I come to work for  
 7 the City of Boston.  
 8 Q. What did you do while you were at  
 9 Northeastern while you were still in school?  
 10 A. I was the coordinator director of the  
 11 student employment program.  
 12 Q. Then you came to work for the City of Boston  
 13 in 1982?  
 14 A. Yes.  
 15 Q. What position did you hold then?  
 16 A. I worked in personnel management within the  
 17 training department.  
 18 Q. Is that here at City Hall?  
 19 A. Yes.  
 20 Q. How long did you hold that position?  
 21 A. Until 1986 -- excuse me, I'm doing okay,  
 22 that until 1986, yes.  
 23 Q. That was the position from which you were  
 24 terminated that led to some litigation,

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1 we'll talk about that later, but is that  
 2 right?  
 3 A. Yes.  
 4 Q. What was your next position after that?  
 5 A. I went to work for the City Counsel, Boston  
 6 City Counsel.  
 7 Q. What year was that?  
 8 A. I don't know the exact year to be honest  
 9 with you. I think it was 1996.  
 10 Q. So there's a ten-year period in between  
 11 there. What were you doing during that ten  
 12 years?  
 13 A. Trying to be re-employed.  
 14 Q. So you weren't employed full-time during  
 15 that ten-year period?  
 16 A. No.  
 17 Q. Did you work on a part-time basis at all?  
 18 A. No.  
 19 Q. In 1996 you took a position with the City  
 20 Counsel?  
 21 A. Yes.  
 22 Q. What is that position?  
 23 A. Assistant Director of Research.  
 24 Q. Is that the same position that you hold

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1 today?  
 2 A. Yes.  
 3 Q. What kinds of duties are you performing in  
 4 that position?  
 5 A. Legislative research, committee work for  
 6 various chairs, that's it.  
 7 Q. So you work for the entire Counsel rather  
 8 than one particular counsel member?  
 9 A. That's correct.  
 10 Q. You mentioned at the outset when I asked you  
 11 if you had been deposed before, I just want  
 12 to ask you a little bit about that. Well,  
 13 why don't we -- you mentioned a moment ago,  
 14 or I guess I mentioned and you confirmed  
 15 that there was a lawsuit against the City of  
 16 Boston resulting from your termination in  
 17 1986 from your position with the personnel  
 18 division, is that right?  
 19 A. Yes.  
 20 Q. Do you remember who the defendants were in  
 21 that case?  
 22 A. The defendants were the City of Boston and  
 23 the personnel director at that time.  
 24 Q. What was that person's name?

3 (Pages 9 to 12)

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1 A. Robert Consalvo.  
 2 Q. Maybe an easier way to go about this would  
 3 be to show you a document. You recall that  
 4 earlier in the course of this litigation the  
 5 defendants sent your attorney some written  
 6 questions to be answered by you?  
 7 A. Yes.  
 8 Q. If you flip to the back of the very last  
 9 page, which is No. 10?  
 10 A. No. 10.  
 11 Q. Yeah, the last page. That's your signature  
 12 where it says "Lincoln Smith"?  
 13 A. Yes, it is.  
 14 Q. It says also there "Signed under the pains  
 15 and penalties of perjury the 27th day of  
 16 January 2004," you saw that when you signed  
 17 the document?  
 18 A. Yes.  
 19 Q. You looked through this before you signed  
 20 it?  
 21 A. Yes.  
 22 Q. I just want to take a look at Page No. 2 and  
 23 what you've done for us in Interrogatory  
 24 No. 2 is respond to our question, "Please

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1 indicate whether you've been a plaintiff or  
 2 a defendant in any other civil lawsuits and  
 3 if so indicate the state, county, case name,  
 4 and docket number of such lawsuits." I read  
 5 that correctly?  
 6 A. Yes.  
 7 Q. Rather than you tell us from memory all of  
 8 these, let's take a look at these and you  
 9 can explain them for us and tell us if  
 10 that's all. You mentioned a minute ago that  
 11 you had a suit against the City of Boston  
 12 and Mr. Consalvo?  
 13 A. Yes.  
 14 Q. Would that be either of the suits listed at  
 15 A and B in your answer?  
 16 A. I believe, yes. I believe it's B and A, as  
 17 well. I'm not certain what A references but  
 18 it would seem to be within the same  
 19 timeframe.  
 20 Q. But it looks then like there were two  
 21 separate lawsuits?  
 22 A. Yes.  
 23 Q. One against the City and one against  
 24 Mr. Consalvo?

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1 A. Yes.  
 2 Q. Did those arise out of the same events?  
 3 A. Yes.  
 4 Q. I don't want to relitigate that case, but  
 5 can you give me an idea of what the case was  
 6 about?  
 7 A. I guess a real quick synopsis would be an  
 8 unlawful termination case that come down to  
 9 a violation of civil rights.  
 10 Q. Were these two cases consolidated at some  
 11 point?  
 12 A. No, I believe, actually, they were not  
 13 consolidated.  
 14 Q. Just for Mr. Consalvo, what was the outcome  
 15 of that matter?  
 16 A. On the Consalvo matter it went to a jury and  
 17 the jury found that Mr. Consalvo had  
 18 violated my civil rights, that the  
 19 termination was unlawful and that he did it  
 20 in such a way that it was malicious and  
 21 intentional, and there was a punitive reward  
 22 as well.  
 23 Q. So you had a jury verdict in your favor?  
 24 A. Yes.

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1 Q. What was the outcome of the suit with the  
 2 City of Boston?  
 3 A. The City of Boston was dismissed in the  
 4 action.  
 5 Q. In C your answer identifies Smith versus CU  
 6 Homeland Insurance Company?  
 7 A. Yes.  
 8 Q. What was that case about?  
 9 A. That case involved a motor vehicle I had  
 10 that was stolen from Willis Street in  
 11 Dorchester and the insurance company denied  
 12 payment on the claim based on garaging.  
 13 Q. So you sued the insurance company to recover  
 14 money under your claim, under your policy?  
 15 A. Yes.  
 16 Q. What was the outcome of that?  
 17 A. I believe the parties agreed and it was  
 18 dismissed.  
 19 Q. For each of the answers A, B and C there's a  
 20 notation Suffolk County, does that indicate  
 21 that these were cases that were filed in the  
 22 Suffolk Superior Court?  
 23 A. Yes.  
 24 Q. D is Huber and Lacy versus Smith at the



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1 Boston Housing Court where you indicated you  
 2 were a defendant. Tell me about that one.  
 3 A. That's regarding a tenant that lived at  
 4 6 Willis Street in Dorchester that -- how  
 5 much do you want to know? Landlord/tenant  
 6 issue.  
 7 Q. E looks to be the same, one of the same  
 8 tenants, except you're a plaintiff in an  
 9 action against them, is that right?  
 10 A. Yes.  
 11 Q. About what time period do those date from?  
 12 A. I think that was 1999.  
 13 Q. Do you know which of those suits was the  
 14 earlier of the two?  
 15 A. I'm going to say D.  
 16 Q. Again, we're not going to litigate the case,  
 17 but what were the allegations that the  
 18 tenants were making against you?  
 19 A. Actually it was a two-prong situation. I  
 20 had moved that the tenants be evicted due to  
 21 the fact -- it was concerning -- it started  
 22 out with a welfare fraud matter in which  
 23 they were frauding the government and the  
 24 Bureau of Special Investigation contacted me

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1 regarding certain documentation with respect  
 2 to Mr. Huber, if in fact he resided at the  
 3 property, and he did, and the state had  
 4 pulled out a criminal complaint for larceny,  
 5 among other things, against Huber and Lacy,  
 6 and I was to be called as a witness and move  
 7 for an eviction of them because I was  
 8 unaware any of this was going on, and they  
 9 filed a counterclaim against me alleging  
 10 various violations of various codes within  
 11 the city.  
 12 Q. So is E the action in which you sought to  
 13 evict?  
 14 A. I believe it very well may be, yes.  
 15 Q. Did you bring any other type of actions  
 16 against either of those tenants aside from  
 17 attempting to evict them?  
 18 A. Subsequent to that? Yeah, a lot of things  
 19 had stemmed from that actually. Both Lacy  
 20 and Huber were convicted of larceny of state  
 21 monies. As a result of that Huber and Lacy  
 22 both intended to intimidate me, and long  
 23 story short, Huber -- they charged Huber  
 24 with intimidation of a witness and he

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1 ultimately was incarcerated at the South Bay  
 2 House of Correction for intimidation of a  
 3 witness and threats.  
 4 Q. That was you?  
 5 A. Yes.  
 6 Q. I'm not sure that I still understand the  
 7 suit you listed at D, what cause of action  
 8 they were making against you. I understand  
 9 what the federal government brought against  
 10 them, but what did they accuse you of doing?  
 11 A. Violations of state sanitary code, that the  
 12 apartment wasn't up to par. Once the state  
 13 contacted them and they knew I was to be a  
 14 witness, they alleged code violations in the  
 15 unit because of the pending eviction matter,  
 16 so actually there was a counterclaim against  
 17 me based on my eviction action, summary  
 18 process action.  
 19 Q. You denied the veracity of those allegations  
 20 of code violations? Your understanding is  
 21 that they were motivated by their desire to  
 22 avoid eviction?  
 23 A. Yes.  
 24 Q. There's a couple left. F is a generic

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1 reference to many actions in housing court  
 2 because of ISD inspections. Just tell me  
 3 what you intended by that answer. I don't  
 4 want you to list them all but can you  
 5 summarize them for me?  
 6 A. I was in and out of Boston Housing Court  
 7 many times based on a number of issues  
 8 surrounding the Huber/Lacy matter and issues  
 9 at 11 Newport Street in Dorchester.  
 10 Q. It might make sense now to talk a little bit  
 11 about your properties. Do I understand that  
 12 your residence at Willis Street is a  
 13 triple-decker?  
 14 A. It is, yes.  
 15 Q. So you yourself reside in one of the  
 16 apartments?  
 17 A. Yes.  
 18 Q. Then you have two tenants there in the  
 19 normal course of --  
 20 A. Yes.  
 21 Q. Were Huber and Lacy co-tenants in the same  
 22 apartment or were they one occupying one  
 23 apartment and one the other?  
 24 A. No, they were in one apartment.

5 (Pages 17 to 20)

Page 21

1 Q. What other properties do you own?  
 2 A. I own 11 Newport Street in Dorchester.  
 3 Q. Maybe you could just describe that property  
 4 for us, is that also a triple-decker?  
 5 A. Yes.  
 6 Q. How many rooms does that have?  
 7 A. Traditional triple-decker, five, five and  
 8 five.  
 9 Q. So in each unit three bedrooms?  
 10 A. Sometimes they use it as a third bedroom,  
 11 but I think the intent at the time was  
 12 perhaps a dining room, but I think some of  
 13 the tenants may use the dining room as a  
 14 bedroom.  
 15 Q. Any other properties that you own currently?  
 16 A. No.  
 17 Q. Any others that you've operated as a  
 18 landlord in say the last 20 years?  
 19 A. No.  
 20 Q. Just Willis Street and Newport Street?  
 21 A. Yes.  
 22 Q. You've said in Answer 2-F that you've been  
 23 both a plaintiff and defendant in Housing  
 24 Court many times. What are some of the

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1 examples of the sorts of actions in which  
 2 you've been a defendant?  
 3 A. I'd have to obviously look at a file. It  
 4 goes back a number of years.  
 5 Q. Is that because they're so numerous?  
 6 A. I wouldn't say that they're numerous, but it  
 7 seems to be that it's consistent over one  
 8 matter or another, if in fact there was a  
 9 violation and it was resolved for whatever  
 10 reason, it was never cleared through the  
 11 Inspectional Services Department so the  
 12 process continued through the Boston Housing  
 13 Court.  
 14 Q. Well about how many such actions would you  
 15 say there were that you intended to include  
 16 in your Answer 2-F?  
 17 A. From what timeframe to what timeframe?  
 18 Q. Well since you've owned your properties.  
 19 A. I can't answer that.  
 20 Q. Is it more than a dozen?  
 21 A. Yes.  
 22 Q. More than 25?  
 23 A. Over the course of the years, probably. I'm  
 24 not certain. I can't really definitively

Page 23

1 say how many.  
 2 Q. Is that why then you didn't attempt in your  
 3 answer to 2-F to enumerate each one of those  
 4 instances, because they're numerous?  
 5 A. Well we're going back a number of years.  
 6 Q. Okay. By the same token, what types of  
 7 actions have you been a plaintiff in Housing  
 8 Court which you were describing by your  
 9 answer in 2-F?  
 10 A. When you say "plaintiff," sometimes to be a  
 11 plaintiff, to get access, issues like that,  
 12 you have to file, I guess, under the  
 13 category of being a plaintiff. I'm not an  
 14 attorney, but you become a plaintiff to file  
 15 for a restraining order, which is a civil  
 16 action, to get access to a unit if a tenant  
 17 fails to give you access for whatever reason  
 18 and there is an alleged violation of some  
 19 kind that you're trying to resolve and they  
 20 don't give you access, Inspectional Services  
 21 is in fact involved in trying to resolve  
 22 whatever issue may be there, but they keep  
 23 blocking you, you need to go into court and  
 24 file for a restraining order to get access,

Page 24

1 and I guess that's where I become somewhat  
 2 of a plaintiff in a number of issues there.  
 3 Q. Are there other types of situations in which  
 4 you also become a plaintiff that you were  
 5 intending to refer to in 2 --  
 6 A. No, I think that also deals with summary  
 7 process actions for evictions. That's it.  
 8 Q. So those two types, summary process  
 9 evictions and instances where you've sought  
 10 to get access to your property, those are  
 11 the types of actions that you intended by  
 12 "Plaintiff many times in Housing Court"?  
 13 A. Yes.  
 14 Q. About how many of those types of actions  
 15 would you say you've been involved in?  
 16 A. Probably half a dozen.  
 17 Q. At 2-G you've listed Inspectional Services  
 18 versus Smith, Boston Housing Court, what was  
 19 that case about?  
 20 A. It appears to be probable cause matter, an  
 21 action brought by the Inspectional Services  
 22 Department against me in '01, and I'd have  
 23 to reference the docket to kind of elaborate  
 24 as to what that was, I don't know.

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1 Q. Is that related to H, the Williams versus  
2 Smith matter also an '01 docket number in  
3 Boston?  
4 A. It could be.  
5 Q. Are you saying you don't remember?  
6 A. I'm trying to be honest. It may very well  
7 be. The dates, obviously it's in the same  
8 calender year, and there was a civil action  
9 against Williams.  
10 Q. Okay. In H you've written "Plaintiff,  
11 Williams versus Smith".  
12 A. Right.  
13 Q. That's an error, isn't it, you were the  
14 defendant in that case, weren't you?  
15 A. It says "Plaintiff, Williams versus Smith".  
16 I would assume Williams was the plaintiff.  
17 Q. So you didn't mean to indicate by answering  
18 plaintiff that you were the plaintiff in the  
19 case?  
20 A. No.  
21 Q. So you're saying that you're not sure what  
22 the case you listed in G was about?  
23 A. Right. There were three actually, three  
24 issues surrounding that. There was a

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1 restraining order issue that needed to be  
2 filed with respect to the Palmira Williams  
3 matter for access.  
4 Q. Well that would be a 2-F case, wouldn't it,  
5 you just told us that was an example of the  
6 kinds of things --  
7 A. Yes, but coming down here a little bit with  
8 respect to H, there were three issues there,  
9 and three issues being restraining order  
10 issue, a claim brought by Williams against  
11 me, and a claim brought by me against  
12 Williams.  
13 Q. So Williams initiated the suit and you had a  
14 counterclaim against her?  
15 A. Yes.  
16 Q. G is related in some way to the events that  
17 were part of the case in H?  
18 A. I can't honestly answer that. It's PC, it's  
19 probable cause hearing, and it was brought  
20 by, I'm assuming, the Inspectional Services  
21 Department against me.  
22 Q. Well this is the only case of this type that  
23 you've listed here in your answer, right?  
24 A. Right, but like I told you it's pretty --

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1 the issues from Inspectional Services  
2 Department, there are many, and obviously  
3 I'd have to look at some sort of  
4 documentation to affirm any questions you  
5 may be asking me to be pointed to --  
6 Q. I don't want to litigate the case, the only  
7 question I'm asking you is just what type of  
8 action was it and what property did it  
9 relate to and what were the allegations?  
10 A. Again, I'm going to say G probably had to do  
11 with -- 01 had to do with H with respect to  
12 11 Newport Street in Dorchester.  
13 Q. Williams, that's a tenant at that time at  
14 11 Newport Street?  
15 A. Yes.  
16 Q. Is Lacy, is that Donna Lacy?  
17 A. Yes.  
18 Q. What is plaintiff Huber's first name?  
19 A. Paul.  
20 Q. Is that a complete listing now in 2-A  
21 through H of the lawsuits in which you've  
22 been involved?  
23 A. Yes. To the best of my memory, yes.  
24 Q. Weren't you also involved in some litigation

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1 with your sister and brother-in-law  
2 concerning the property at 11 Newport  
3 Street?  
4 A. Yes.  
5 Q. What court was that litigated in?  
6 A. That was litigated in the Probate and Family  
7 Court.  
8 Q. It's here in Suffolk County?  
9 A. Yes.  
10 Q. What were their names?  
11 A. Richard Tracy.  
12 Q. Dick Tracy. Did he go by Dick?  
13 A. Yeah, he did.  
14 Q. That's your brother-in-law, I take it?  
15 A. Ex-brother-in-law.  
16 Q. What was your sister's name?  
17 A. June Sheehan.  
18 Q. Who initiated that suit?  
19 A. They did, I guess. It was concerning  
20 11 Newport Street, the 11 Newport Street  
21 property.  
22 Q. When did you become the owner of 11 Newport  
23 Street, and I realize that may be part of  
24 this case?

7 (Pages 25 to 28)

Page 29

1 A. Solely?  
 2 Q. Yeah. Well, when did you first gain an  
 3 interest in 11 Newport Street?  
 4 A. 1982.  
 5 Q. I take it that was not, you were not the  
 6 sole owner at that time?  
 7 A. That's correct.  
 8 Q. Would it be that your sister and your  
 9 brother-in-law also had an interest in that  
 10 property?  
 11 A. Yes.  
 12 Q. Was this issue form the subject matter of  
 13 the litigation in Family and Probate Court?  
 14 A. Yes.  
 15 Q. How did that all turn out?  
 16 A. I have the property so.  
 17 Q. There was no trial of that case?  
 18 A. Actually there was. There was a trial  
 19 before Judge Snew.  
 20 Q. What timeframe are we talking about for that  
 21 case? What year did you become the sole  
 22 owner of 11 Newport Street?  
 23 A. I'm going to say that was in probably 2000.  
 24 Q. So there was a period of some length where

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1 you had a shared ownership interest in the  
 2 property?  
 3 A. Yes.  
 4 Q. Of 18 years roughly?  
 5 A. Thereabouts.  
 6 Q. About how long did the litigation with your  
 7 sister and brother-in-law take to resolve  
 8 itself?  
 9 A. Probably five years.  
 10 Q. Were you involved in the day to day  
 11 management of the property during that  
 12 period when you were co-owners in effect?  
 13 A. Yes.  
 14 Q. Were your sister and brother-in-law involved  
 15 at all?  
 16 A. No.  
 17 Q. Did you also have a workman's compensation  
 18 claim against the City at some point?  
 19 A. Yes.  
 20 Q. That was during the period when you were,  
 21 after you were terminated from the City but  
 22 before you had your job at the City Counsel?  
 23 A. Yes.  
 24 Q. What venue, I guess, was that case proceeded

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1 in?  
 2 A. The Department of Industrial Accidents.  
 3 Q. You were the plaintiff, I take it, or the  
 4 complainant they might say?  
 5 A. Yes.  
 6 Q. Who was the respondent or defendant, the  
 7 City of Boston?  
 8 A. Yes.  
 9 Q. About what timeframe did you initiate that  
 10 action?  
 11 A. 1991 approximately.  
 12 Q. So that's about five years after you were  
 13 last employed by the City at the time that  
 14 you initiated that action?  
 15 A. Yes.  
 16 Q. What was the outcome of that action?  
 17 A. The Department of Industrial Accidents ruled  
 18 in my favor.  
 19 Q. Were you ever involved in litigation with an  
 20 Attorney Levine?  
 21 A. Yes, currently.  
 22 Q. That's ongoing?  
 23 A. Yes.  
 24 Q. What's his first name?

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1 A. Eric.  
 2 Q. Who was the plaintiff in that matter?  
 3 A. I am. Well, both actually.  
 4 Q. Who filed suit?  
 5 A. I think initially he did and I filed the  
 6 counterclaim.  
 7 Q. So the caption would be Levine versus Smith?  
 8 A. Yes.  
 9 Q. What venue is that proceeding in?  
 10 A. Suffolk Superior Court.  
 11 Q. Do you know what year that case was filed  
 12 in?  
 13 A. Probably six months ago, a year ago. Let's  
 14 say a year ago.  
 15 Q. What's the subject matter of that action?  
 16 A. It's regarding fees against me.  
 17 Q. A fee dispute between you and your attorney?  
 18 A. Right, and also malpractice and negligence  
 19 against Mr. Levine who has been suspended  
 20 from the practice of law by the SJC for two  
 21 years.  
 22 Q. So Mr. Levine sought to recover fees from  
 23 you and then you have a malpractice claim  
 24 against him which is your counter-suit?



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1 A. Yes, and subsequent to that he's been  
 2 suspended from the practice of law for two  
 3 years.  
 4 Q. Was he suspended, if you know, for issues  
 5 relating to his handling of your matter?  
 6 A. I can't comment on that. I don't know if  
 7 that's solely the case, but I know most  
 8 recently, probably within the last two days  
 9 or so, that the Board of Bar Overseers has  
 10 filed a contempt complaint against  
 11 Mr. Levine with respect of his handling of  
 12 practicing without a license.  
 13 Q. Was he practicing without a license at the  
 14 time he handled your matter?  
 15 A. No.  
 16 Q. What matter did he handle for you?  
 17 A. He handled the Lacy/Huber matter.  
 18 Q. That matter concluded in 1991, right -- no,  
 19 I'm sorry, I'm confused. I was looking at  
 20 Tracy versus Lacy. The Lacy/Huber matter  
 21 relates to events in 1999, right?  
 22 A. Right.  
 23 Q. How about Regina Quinlan, have you been  
 24 involved in litigation with her?

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1 A. I was involved in litigation with Regina  
 2 Quinlan, yes. I can't say litigation.  
 3 Q. She represented you in your suit against the  
 4 City and Mr. Consalvo?  
 5 A. Yes.  
 6 Q. There was a fee dispute in that case, is  
 7 that right?  
 8 A. Yes, there was.  
 9 Q. Do I understand that there's no case with  
 10 its own separate docket number related to  
 11 those events, it was just part of the end of  
 12 your litigation with the City where the fee  
 13 dispute was handled?  
 14 A. Yes.  
 15 Q. Did you also bring any sorts of claims  
 16 against Judge Quinlan in another venue with  
 17 any Bar Overseers or organizations of that  
 18 sort?  
 19 A. When she was a judge, no.  
 20 Q. Anytime.  
 21 A. Prior to her being a judge?  
 22 Q. Sure. At anytime have you ever made a  
 23 complaint against Judge Quinlan to any  
 24 agency or body that oversees attorneys?

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1 A. Yes.  
 2 Q. When was that?  
 3 A. I can't give you the exact date.  
 4 Q. Was it related to the litigation against  
 5 Mr. Consalvo and the City?  
 6 A. It was regarding Regina Quinlan's failure to  
 7 file a worker's compensation claim as a part  
 8 of the action regarding the Robert Consalvo  
 9 action.  
 10 Q. So the case at the Department of Industrial  
 11 Accidents, it's somehow related to those  
 12 same issues?  
 13 A. Well what happened, if I can put it in  
 14 context here, what had happened was Judge  
 15 Greenberg, at that particular time Regina  
 16 Quinlan was my attorney, the City was ruled  
 17 out of the action based on the fact that the  
 18 court determined that Robert Consalvo's  
 19 actions, he did it himself and the Court  
 20 also ruled that Regina Quinlan should have  
 21 filed a worker's compensation claim and she  
 22 did not, and Judge Greenberg raised the  
 23 issue extensively in court basically asking  
 24 her why she did not file a claim at the

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1 Board of Industrial Accidents, that that was  
 2 the venue to file, you know, for issues  
 3 surrounding one's health and all that, so  
 4 that's what that stems from, just so you  
 5 have clarity.  
 6 Q. That's exactly what I'm asking. Judge  
 7 Quinlan did not represent you in the  
 8 Industrial Accidents Board case then, right?  
 9 A. That's correct.  
 10 Q. So the basis of your complaint was her  
 11 failure to litigate your worker's  
 12 compensation claim at the appropriate time?  
 13 A. Right.  
 14 Q. Do you know what the outcome of that was, if  
 15 any?  
 16 A. No.  
 17 Q. You don't know or --  
 18 A. The outcome of the complaint itself?  
 19 Q. Right.  
 20 A. I believe there was no action taken.  
 21 Q. What agency or who was the complaint  
 22 directed to --  
 23 A. At that particular time the Board of Bar  
 24 Overseers based on Judge Greenberg's

9 (Pages 33 to 36)

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1 concerns that he raised at trial.  
 2 Q. Did you ever receive from the Board of Bar  
 3 Overseers any notification of their  
 4 findings?  
 5 A. Yes, I did.  
 6 Q. What was that?  
 7 A. I don't know, its been so many years ago. I  
 8 think basically it said they weren't going  
 9 to take any action on it.  
 10 Q. What was the outcome of the fee dispute with  
 11 Judge Quinlan?  
 12 A. It was just ended when the Consalvo matter  
 13 ended, there was no more action taken.  
 14 Q. Was she awarded fees?  
 15 A. She got her fees, yes.  
 16 Q. The Levine matter you told me is still  
 17 pending. What was the outcome of the cases  
 18 that you listed in 2-G and H which you  
 19 thought were related to 11 Newport Street  
 20 and Ms. Williams? Taking G first,  
 21 Inspectional Services versus Smith, what was  
 22 the outcome of that case?  
 23 A. Again, I don't know.  
 24 Q. It's concluded, though?

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1 A. I don't even know if it got off the ground.  
 2 It was a probable cause hearing.  
 3 Q. How about H, is that matter still ongoing?  
 4 A. The Palmira Williams matter was scheduled to  
 5 go to trial and the parties come to an  
 6 agreement and it's not going to trial and  
 7 the insurance company is settling it.  
 8 Q. Has it been dismissed already or that's  
 9 just --  
 10 A. I believe it's probably a dismissal. It was  
 11 to go to trial a couple of months ago and  
 12 I'm really not involved in that, that's the  
 13 insurance company and the Legal Service  
 14 Center of Jamaica Plain.  
 15 Q. In Answer to Interrogatory 2 you listed  
 16 seven cases and we've discussed another five  
 17 cases and then -- so that's 12, and then in  
 18 F you mentioned about another -- well, a  
 19 number of several dozen, we don't know the  
 20 exact number. Are there any cases other  
 21 than those in which you've been a litigant?  
 22 A. Not that I'm aware of.  
 23 Q. To the best of your knowledge you've told me  
 24 about all of them?

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1 A. Correct.  
 2 Q. Who are the current tenants at 11 Newport  
 3 Street?  
 4 A. Brian Dailey is on the third floor, Kate  
 5 Hayes is on the second floor, and Samantha  
 6 and David French are on the first floor.  
 7 Q. Do they number the apartments one to three?  
 8 A. Yes.  
 9 Q. Does it go from bottom to top?  
 10 A. French being on the first and Dailey being  
 11 on the third.  
 12 Q. What I'm asking you is, Apartment 1 is the  
 13 lower, Apartment 2 is the second floor and  
 14 Apartment 3 is the third floor?  
 15 A. Right.  
 16 Q. Are any of those tenants holdovers from the  
 17 time of December 2000?  
 18 A. No.  
 19 Q. So you've had a complete turnover?  
 20 A. Yes.  
 21 Q. Who was in those units in December of 2000?  
 22 Who was in 1?  
 23 A. O'Shea, Elizabeth O'Shea.  
 24 Q. She is deceased now?

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1 A. Yes.  
 2 Q. Did she live there alone?  
 3 A. She was supposed to live there alone.  
 4 Q. She didn't?  
 5 A. She was supposed to live there alone. When  
 6 I rented the apartment to her it was for a  
 7 60-something year old woman that was being  
 8 displaced out of South Boston and that was  
 9 the story that was given to me.  
 10 Q. But in fact others, you believe, were living  
 11 there?  
 12 A. Yes.  
 13 Q. What was the period of her tenancy, when did  
 14 it begin and end?  
 15 A. I'd have to look at the file to be honest  
 16 with you. She was there for a number of  
 17 years, though.  
 18 Q. Did she remain there until her death?  
 19 A. Yes.  
 20 Q. Her son was a tenant of yours previously?  
 21 A. Yes.  
 22 Q. In the same apartment?  
 23 A. No, actually her son lived on the third  
 24 floor.

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- 1 Q. So when Ms. O'Shea moved in her son was a  
2 tenant in No. 3?  
3 A. Yes.  
4 Q. Who was living in No. 1 with Ms. O'Shea  
5 inappropriately?  
6 A. I wish I could answer that.  
7 Q. You don't know?  
8 A. Her daughter moved in, the daughter's son  
9 moved in, the son's girlfriend moved in, and  
10 I think there was a baby there.  
11 Q. Is that a violation of the terms of her  
12 lease?  
13 A. It was.  
14 Q. Do you set your rents according to the  
15 number of tenants or is there some impact  
16 that it has?  
17 A. It did at the time. She was again a woman  
18 that was an older woman and I guess my  
19 thought pattern is and continues to be that  
20 if you have an older person there they're  
21 more apt to take care of the property, and  
22 that was my thought pattern at the time when  
23 I rented to her so.  
24 Q. Was this an issue between you and

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- 1 A. I believe she came in probably around the  
2 same time, '98.  
3 Q. Around the same time as Ms. O'Shea?  
4 A. Within the same timeframe, thereabouts, yes.  
5 Q. When did she leave the apartment?  
6 A. 2001.  
7 Q. When did Ms. O'Shea die, if you know?  
8 A. I'm going to say it was the fall of 2001,  
9 maybe November.  
10 Q. What was her son's name?  
11 A. She had a number of sons.  
12 Q. The one who lived in No. 3?  
13 A. Stephen O'Shea.  
14 Q. Who was in No. 3 in December of 2000?  
15 A. Palmira Williams.  
16 Q. That's the plaintiff you had occasion to  
17 speak of earlier in some litigation in  
18 Housing Court?  
19 A. Yes.  
20 Q. What were the periods of her tenancy?  
21 A. I believe she came in in probably 2000,  
22 early 2000, February of 2000 maybe.  
23 Q. When did she leave the apartment?  
24 A. She left the apartment in, I believe it was

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- 1 Ms. O'Shea or was it something that you  
2 accepted?  
3 A. No, it was an issue. It was an issue. It  
4 was an issue, God rest her sole, I didn't  
5 know -- I didn't know she was sick until  
6 well after the incident of 2000 and she and  
7 I did speak after that, you know, we had a  
8 relationship, and she felt badly about  
9 everything, and I think I got hurt in March  
10 and I probably saw her in July and she came  
11 over to speak to me in July of 2000 and told  
12 me she was ill.  
13 Q. About how many years had she been living  
14 there in 2000?  
15 A. She may have moved in in 19 -- I can get the  
16 record for you. She may have moved in in  
17 1998, '99, somewhere in there. She wasn't  
18 there very long.  
19 Q. Who was in No. 2 in December of 2000?  
20 A. Pamela Wallace.  
21 Q. She lived there by herself?  
22 A. She had a son that lived there.  
23 Q. What period of her tenancy, when did she  
24 come in and when did she leave?

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- 1 2001, 2002. I have to look at my file.  
2 (Discussion off the record.)  
3 (Recess.)  
4 Q. Just to backtrack a bit -- or before we do  
5 anything else we should mark this as  
6 Exhibit 1?  
7 (Answers to Interrogatories marked  
8 Exhibit No. 1 for Identification.)  
9 Q. Just to backtrack a little bit, were you  
10 involved in any litigation to recover your  
11 position from which you were terminated in  
12 1986?  
13 A. Yes.  
14 Q. What venue did you pursue that in?  
15 A. That was Suffolk Superior Court as well as a  
16 result of the Consalvo matter.  
17 Q. Would that also be as a result of the Smith  
18 versus the City of Boston or something to  
19 that effect?  
20 A. Yes.  
21 Q. Was that following the conclusion of your  
22 jury trial and so forth?  
23 A. Yes.  
24 Q. I'm sorry, I don't remember off the top of

11 (Pages 41 to 44)

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1 my head when the trial was. Roughly what  
 2 year was that suit filed?  
 3 A. I don't know, '92 maybe.  
 4 Q. Do you remember what year the trial was?  
 5 A. '91.  
 6 Q. What was the outcome -- well, you weren't  
 7 rehired, correct?  
 8 A. I was not reinstated based on the failure to  
 9 file a worker's compensation claim.  
 10 Q. So the failure to file a worker's  
 11 compensation claim affected the merits of  
 12 your action to --  
 13 A. Holding on the City of Boston and on the  
 14 action, correct.  
 15 Q. So this case that you're just telling me  
 16 about now had some sort of resolution on the  
 17 merits, was that through trial?  
 18 A. Yes.  
 19 Q. The workman's comp. thing has come up a few  
 20 times, I'm not sure I understand that. Were  
 21 you alleging a disability based on the  
 22 events surrounding your termination?  
 23 A. Yes.  
 24 Q. What was the nature of that?

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1 A. I don't understand your question.  
 2 Q. Well when you filed your complaint with the  
 3 Department of Industrial Accidents, what was  
 4 the basis of your claim, if you had to  
 5 summarize it in a short paragraph?  
 6 A. There were a host of health issues.  
 7 Q. What were those?  
 8 A. I've been diagnosed with post-traumatic  
 9 stress syndrome, depression, hypertension,  
 10 migraine headaches.  
 11 Q. Anything else?  
 12 A. There's a lot of different things involved  
 13 with it. I guess that's a matter of record.  
 14 I'm sure you have access to it.  
 15 Q. I suppose I could, but that's why I have you  
 16 here to tell me so I don't have to go read  
 17 all that. So if I understand correctly, you  
 18 are alleging that conditions that you just  
 19 described for me were resulting from events  
 20 surrounding your termination?  
 21 A. The unlawful acts of Robert Consalvo, yes.  
 22 Q. Were those conditions that you've described  
 23 the reason why you weren't employed  
 24 full-time for that ten-year period?

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1 A. Yes. Part of it.  
 2 Q. What's the other part?  
 3 A. I was obviously looking to be re-employed,  
 4 however the record reflected that I was  
 5 fired for cause here in the city and that  
 6 was ultimately decided by the Supreme  
 7 Judicial Court and the Appellate Court and  
 8 they ordered the City of Boston to correct  
 9 my personnel records to reflect that I was  
 10 not fired for cause but in fact in violation  
 11 of my civil rights.  
 12 Q. Is that another lawsuit in which you were  
 13 involved to have your record corrected?  
 14 A. I believe it was part of one of those  
 15 lawsuits and it ultimately went up to the  
 16 Appellate Court and they ordered the City to  
 17 correct my personnel records and there was a  
 18 declaration, I guess, if that's what it's  
 19 called, I'm not certain, and nevertheless  
 20 the City of Boston maintained on their files  
 21 from '86 forward that I was fired for cause  
 22 and it took the Appellate Court or the SJC  
 23 many years after the fact to order the City  
 24 to correct.

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1 Q. In what case did that order issue?  
 2 A. I don't know.  
 3 Q. Was it a separate complaint for declaratory  
 4 relief that you filed?  
 5 A. I don't believe so. I think it was a part  
 6 of one of the actions. I can't answer that.  
 7 I don't believe it was a separate action.  
 8 Q. Are there any other -- is there any other  
 9 litigation in which you've been involved  
 10 that you haven't told me about yet?  
 11 A. No.  
 12 Q. The problems that you just described for me,  
 13 the post-traumatic stress and the migraines  
 14 and the hypertension and there was one more  
 15 that I'm forgetting --  
 16 A. Depression.  
 17 Q. You must have had treatment for those, I  
 18 imagine?  
 19 A. Yes.  
 20 Q. Was there a period when those complaints had  
 21 resolved?  
 22 A. No.  
 23 Q. Did you reach a point ever where you were no  
 24 longer suffering from those conditions?



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1 A. No.  
 2 Q. So even though you returned to work in 1996  
 3 you continue to suffer from those symptoms?  
 4 A. Yes.  
 5 Q. You were telling me about the Huber and Lacy  
 6 cases and you were describing some  
 7 fraudulent activities that I guess the  
 8 federal government had been investigating,  
 9 am I summarizing that right?  
 10 A. State, state government.  
 11 Q. What's a Section 8 tenant? I don't know  
 12 anything about that, so just if you could  
 13 give me an idea of what that's about.  
 14 A. I never had a Section 8 tenant, to be honest  
 15 with you, until Palmira Williams.  
 16 Q. She was the only one that you had at that  
 17 point, up to the date of her tenancy?  
 18 A. That was the first time I explored the whole  
 19 possibility of a Section 8 tenant.  
 20 Q. Give me a brief idea of what Section 8  
 21 refers to.  
 22 A. Section 8, the Section 8 program is a  
 23 subsidized housing program in which there is  
 24 state allocation, federal allocation of

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1 three months behind, and I had requested, I  
 2 said "It's only \$550 a month. You're three  
 3 months behind. I need to get some rent off  
 4 you," and at that point in time she stated  
 5 to me that he had left and she didn't have  
 6 the money, and if I signed, you know, she  
 7 was going to be looking for some aid for the  
 8 children, and if I had signed to pay her  
 9 rent so she wouldn't be evicted, so I signed  
 10 and a year or so passed and he was back, but  
 11 I didn't know what they were doing, and long  
 12 story short, I guess they defrauded the  
 13 government of approximately \$21,000.  
 14 Q. So the aid that they received, it wasn't a  
 15 similar situation to Section 8 where the  
 16 government was paying some portion of their  
 17 rent, it was some other aid that went  
 18 directly to them?  
 19 A. It was a direct payment -- I believe it was  
 20 aid for dependent children based on the fact  
 21 that he was not in the home, "he" being the  
 22 father of the children who worked for  
 23 Local 25, but I guess they reconciled their  
 24 differences. I don't try to get involved in

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1 dollars to an agency, in this particular  
 2 case the Boston Housing Authority, and they  
 3 have a qualifying factor, of course I don't  
 4 know all of the particulars, they qualify  
 5 for this type of certificate and if the  
 6 landlord is willing to take a Section 8  
 7 tenant on they go through a -- the landlord  
 8 goes through an extensive inspection of the  
 9 unit to make sure it's compliant with all  
 10 the state sanitary codes and it's in  
 11 compliance.  
 12 Q. Is a portion of the tenant's rent then is  
 13 paid by one or another government agency?  
 14 A. Yes, based on income.  
 15 Q. Ms. O'Shea was not a Section 8?  
 16 A. No.  
 17 Q. Neither were Mr. Huber and Ms. Lacy?  
 18 A. No.  
 19 Q. But they were recipients of some other aid  
 20 program? You described some fraudulent  
 21 activities that's why I ask.  
 22 A. What had happened was they weren't paying  
 23 their rent and it was a minimum rent, I  
 24 think it was \$550 a month, and they were

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1 people's personal matters, and after I  
 2 signed, a month later he was back and I just  
 3 thought they reconciled their differences  
 4 and didn't give it much thought, until I got  
 5 a call from the Bureau of Special  
 6 Investigations making an inquiry whether or  
 7 not he was there.  
 8 Q. So it wasn't related to their lease with you  
 9 or tenancy with you other than that the  
 10 government was interested in who was living  
 11 there and you had knowledge of that, is that  
 12 fair?  
 13 A. I had knowledge and I was the landlord and  
 14 therefore I was going to be subpoenaed on  
 15 it.  
 16 Q. But other than Ms. Williams, at least up  
 17 until December of 2000, you hadn't had other  
 18 tenants who were Section 8 tenants?  
 19 A. Pamela Wallace was a Section 8 tenant. She  
 20 was on the second floor.  
 21 Q. She came in in 1998?  
 22 A. No, I don't believe so.  
 23 Q. When did she --  
 24 A. I don't know. I'd probably say 1999.

13 (Pages 49 to 52)

Page 53

1 Q. What was your relationship like with  
2 Ms. O'Shea during her tenancy?  
3 A. Respectful.  
4 Q. Did you have contact with her frequently?  
5 A. No.  
6 Q. Had she made any complaints about you that  
7 you're aware of?  
8 A. No.  
9 Q. Had you had any issues with her and her  
10 tenancy of the apartment?  
11 A. No, just the fact that I became aware that  
12 there were other people living there that  
13 shouldn't have been living there and it was  
14 a violation of our agreement.  
15 Q. Is there any significance to the number --  
16 to who's living in the apartment, similar to  
17 what you've described with Ms. Lacy and  
18 Mr. Huber or?  
19 MR. OHLSON: Objection. I don't  
20 think I understand the question.  
21 MR. CHERNETSKY: Pardon me?  
22 Q. Did you understand the question?  
23 A. The question, if I remember correctly, was  
24 was there any significance, any difference

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1 or any significance with the O'Shea tenancy  
2 and the Huber/Lacy tenancy.  
3 Q. Let me rephrase it. You mention that you  
4 had concerns about Ms. O'Shea and who was  
5 living in the apartment, was the nature of  
6 your concern in anyway related to the same  
7 sorts of issues which you describe for us as  
8 being important in the Huber/Lacy case?  
9 Meaning, was the number of people living in  
10 the apartment in anyway significant for any  
11 aid programs or anything like that?  
12 A. She wasn't on aid. She paid her rent.  
13 Mrs. O'Shea paid her rent. She wasn't on  
14 any type of aid that I was aware of.  
15 Q. So your concern about who was living there  
16 was related to what?  
17 A. Who was living there, number one, what the  
18 relationship was and what they were doing  
19 there.  
20 Q. Just your general desire to know who your  
21 tenants are?  
22 A. Yeah, I think it's important to know who  
23 your tenants are and to try to run a tight  
24 ship.

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1 Q. How about Pamela Wallace, what was your  
2 relationship with her like?  
3 A. It was a landlord/tenant relationship.  
4 Q. Had she made any complaints about you to any  
5 court or agency that you're aware of?  
6 A. No.  
7 Q. By the same token, had you initiated any  
8 proceedings against her?  
9 A. No.  
10 Q. What about Palmira Williams, what was your  
11 relationship with her like?  
12 A. A landlord/tenant relationship, until there  
13 was an issue about her share of the rent for  
14 non-payment and that became an issue.  
15 Q. Did you have any issues concerning her  
16 upkeep of the property or anything of that  
17 nature?  
18 A. Yes.  
19 Q. What were those?  
20 A. Could you rephrase that because there are a  
21 number of issues there.  
22 Q. Tell me about anything that you can remember  
23 about Ms. Williams's tenancy in which you  
24 felt was a violation of her lease.

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1 A. She had people other than herself living in  
2 the apartment. Under the Section 8 lease  
3 and agreement it was supposed to be for  
4 herself -- actually for herself and her son  
5 and then there was some change in that but  
6 there were other people living there in  
7 addition to Ms. Williams, and, you know, the  
8 way she kept the unit, the way she kept the  
9 common areas, became an issue.  
10 Q. What sorts of things did she do in the  
11 course of keeping her unit that were  
12 deficient?  
13 A. She was dirty, number one. Had stock pile  
14 cases and cases of empty beer bottles on the  
15 back porch, wine bottles, which were  
16 attracting rodents and birds and droppings,  
17 which was a significant problem in my view.  
18 She failed to rectify any of those issues,  
19 and when I questioned her about her late  
20 share of her rent, she just tried to buck  
21 you on everything. She didn't want to pay  
22 her share of the rent, which I think was  
23 only \$20 or \$29.  
24 Q. So was the balance of her rent paid by the

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- 1 Section 8 program?  
 2 A. Yes.  
 3 Q. Is that ratio of payment, government versus  
 4 tenants, affected by who's living in the  
 5 apartment?  
 6 A. Yes.  
 7 Q. So your concerns about who's living in  
 8 Ms. Williams apartment, aside from your  
 9 regular concerns that any landlord has, are  
 10 also related to how you're going to be paid  
 11 and how that Section 8 program works, is  
 12 that fair?  
 13 A. Yes, she was in violation of the lease with  
 14 having additional people live there and she  
 15 was in violation.  
 16 Q. If there's additional people living in the  
 17 apartment, does that reduce the portion of  
 18 rents paid by the program and increase the  
 19 portion paid by tenants?  
 20 A. It varied.  
 21 Q. What was the name of the son that was living  
 22 in the apartment?  
 23 A. Carlos Lima.  
 24 Q. What was the last name, can you spell it?

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- 1 A. Carlos Lima, L-i-m-a.  
 2 Q. There was another son that you think was  
 3 there sometimes as well?  
 4 A. There were a number of people there. I  
 5 can't identify each and every one, but just  
 6 based on my own observation and reports from  
 7 people in the area.  
 8 Q. Did you discuss this issue with Ms.  
 9 Williams?  
 10 A. Yes.  
 11 Q. You made her aware of your concerns about  
 12 who was living in the apartment?  
 13 A. Yes.  
 14 Q. What was her response to that?  
 15 A. Denial and very argumentative.  
 16 Q. About the issues about the trash in the  
 17 common areas, did you discuss that with her?  
 18 A. Yes.  
 19 Q. How did you do that?  
 20 A. Just "You need to clean your back porch.  
 21 You can't stock pile beer bottles. It's  
 22 bringing pigeons, rodents, droppings."  
 23 Q. What was her response?  
 24 A. Very argumentative.

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- 1 Q. You had a problem with her son in particular  
 2 or one of her sons, is that right?  
 3 A. I had a problem with the son at one point in  
 4 time, yes.  
 5 Q. Is that Mr. Lima?  
 6 A. Yes.  
 7 Q. You tell me, but was there an incident when  
 8 there was a confrontation with Mr. Lima?  
 9 A. Yes.  
 10 Q. What was that all about?  
 11 A. I went to the property to take a piece of  
 12 sheet rock off the back porch, I believe it  
 13 was on a, I believe it was on a Saturday if  
 14 my memory serves me correct, because the  
 15 rubbish was picked up there on a Friday,  
 16 there was a holiday or something, went down  
 17 there to get a piece of sheet rock off the  
 18 back porch at which point in time Mr. Lima  
 19 opened the back door and came out on to the  
 20 porch and started shoving me and pushing me  
 21 and saying "Get out of here. Get out," and  
 22 he's a pretty big guy, young guy, and then  
 23 of course the mother come out, the sister,  
 24 the brother-in-law, and pushed me up against

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- 1 the wall and threatened me "Get out of  
 2 here," and next thing I knew they locked the  
 3 door, so I couldn't get out even if I wanted  
 4 to get out.  
 5 Q. You were in a common area?  
 6 A. I was on the back porch.  
 7 Q. Is that part of the common area?  
 8 A. It's part of the common area, and they  
 9 called the Boston Police and Boston Police  
 10 came and basically Boston Police said that  
 11 she was very uncooperative and that was  
 12 basically it in a nutshell.  
 13 Q. She called the police herself or somebody in  
 14 her --  
 15 A. Someone within that party.  
 16 Q. Was anybody arrested?  
 17 A. No.  
 18 Q. Did anything further result from the police  
 19 responding to Newport Street on that day?  
 20 A. No.  
 21 Q. Did you ever see Mr. Lima again after that?  
 22 A. Yes.  
 23 Q. Did you have any further confrontations with  
 24 him?

15 (Pages 57 to 60)

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1 A. I tried to stay away from him.  
 2 Q. In the terms of your lease that you have  
 3 with your tenants, are you permitted to  
 4 access those common areas at anytime?  
 5 A. Yes, it comes off a common hallway. If  
 6 you're familiar with a triple-decker, you  
 7 got access, you can access the rear porches.  
 8 Q. So you don't need to enter any tenant's  
 9 apartment in order to get to that porch?  
 10 A. No.  
 11 Q. Did she tell the police that you had entered  
 12 her apartment without permission?  
 13 A. Yes.  
 14 Q. Was she referring to that day or other  
 15 occasions?  
 16 A. I don't know what she was referring to.  
 17 Q. Had you ever entered her apartment without  
 18 permission?  
 19 A. Absolutely not.  
 20 Q. I think you made reference earlier to when  
 21 you were hurt. I understand that you had a  
 22 very bad accident of some kind in the year  
 23 2001, is that right?  
 24 A. Yes.

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1 Q. You were a pedestrian and you were struck by  
 2 an automobile or something like that, is  
 3 that right?  
 4 A. Struck by a truck, yes.  
 5 Q. Did you believe that Ms. Williams's son was  
 6 involved somehow in your accident?  
 7 A. I don't know. I can't comment on that.  
 8 Q. But you have commented on that in the past,  
 9 haven't you?  
 10 A. I don't know what happened to be honest with  
 11 you.  
 12 Q. It was a possibility to you that somehow  
 13 Mr. Lima was responsible for your accident?  
 14 A. No, I'm not going to say that. I don't know  
 15 that.  
 16 Q. Have you ever said that to the police?  
 17 A. The police, if my memory serves me correct,  
 18 the night I was hit, and I was basically  
 19 laying there on the ground, the police  
 20 responded and said "Lincoln. Lincoln,  
 21 please answer us. Did one of your tenants  
 22 do this to you?"  
 23 Q. That was a question that the police asked  
 24 you without your having raised the

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1 possibility first?  
 2 A. Right.  
 3 Q. Why do you think that that would be the  
 4 first thought that the police officer would  
 5 have?  
 6 A. They were aware that there was a tenant,  
 7 there were tenant issues.  
 8 Q. How soon after the confrontation with Mr.  
 9 Lima that you've described was your  
 10 accident?  
 11 A. I can't -- there was some issues obviously  
 12 surrounding the 11 Newport Street property,  
 13 late December 2000 going into January 2001,  
 14 and I was struck on March 8, 2001.  
 15 Q. The confrontation with Mr. Lima was on  
 16 January 6, is that right?  
 17 A. I can't comment. I have no idea to be  
 18 honest with you.  
 19 Q. Let me show you a document and just see if  
 20 it refreshes your recollection at all. I  
 21 apologize, it's going to take me a moment to  
 22 find it.  
 23 MR. CHERNETSKY: I don't have  
 24 multiple copies of this one, George, so I'll

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1 show it to you first.  
 2 Q. Have you ever seen that document before?  
 3 A. I have, yes.  
 4 Q. What does it appear to be?  
 5 A. It's a police report.  
 6 Q. Are you able to determine what events that  
 7 report is related to?  
 8 A. My vision is a little off here. It's  
 9 obviously regarding Palmira Williams and the  
 10 date on it is January 6, '01, yes.  
 11 Q. Who was the, if you know, who was the police  
 12 officer who asked you whether your tenants  
 13 had done this to you?  
 14 A. It was Captain Robert Dunford.  
 15 Q. Now Superintendent Dunford?  
 16 A. Yes.  
 17 Q. He wasn't one of the officers who was on the  
 18 scene on January 6, was he?  
 19 A. No, but when I was struck he did come, he  
 20 was on the scene. They set it up as a, my  
 21 understanding, as a crime scene and the  
 22 homicide responded.  
 23 Q. Tell me a little about what you remember.  
 24 How did your accident happen? What do you



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1 remember, if anything?

2 A. I was at the funeral of a very good friend

3 of mine's father who had passed away and it

4 was at O'Connor's Funeral Home on Adams

5 Street in Dorchester, and there were some,

6 obviously, issues regarding Inspectional

7 Services Department going on in and around

8 that particular time, and I had left the

9 funeral home and had walked down Adams

10 Street, cut out one car in front of mine,

11 was right at the door of my car and a truck

12 comes speeding up Adams Street and hit me.

13 Q. So the police treated this as potentially

14 not an accident but as an intentional act?

15 A. I don't know how they treated it but what

16 I'm told is that there was a crime scene set

17 up and I know the homicide detectives

18 responded down to Boston Medical around two

19 o'clock in the morning.

20 Q. To interview you or were you too hurt to --

21 A. No, I couldn't be interviewed.

22 Q. So you were quite seriously injured?

23 A. I was, yes.

24 Q. Do you have any understanding what the

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1 outcome of the investigation was, was

2 anybody arrested?

3 A. Arrested? I don't know if someone was

4 arrested. They did identify the truck, and

5 there was a gentleman by the name of Liam

6 Morgan who had to appear in Dorchester

7 District Court. My understanding is he's

8 fled the country now. He's a fugitive.

9 Q. Is that individual known to you?

10 A. No.

11 Q. Are you aware of any connection between that

12 individual and any of your tenants?

13 A. I don't know.

14 Q. In the course of this investigation did

15 anybody from the police department ever

16 articulate any connection between that

17 individual and any of your tenants?

18 A. I don't understand the question.

19 Q. Well in the time that the police department

20 was investigating your accident, did you

21 ever become aware of any connection between

22 the individual that hit you and any of your

23 tenants?

24 A. Within that timeframe I really can't

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1 comment. I was seriously injured.

2 Q. To this day, have you ever become aware of

3 anything like that?

4 A. I don't know. I can't comment on that, I

5 have no idea. What happened was --

6 obviously I was hospitalized for a couple of

7 months and in extensive rehabilitative

8 therapy thereafter, and I don't know what

9 course of action the police had taken, but I

10 do know that the last time I had a

11 conversation with, I believe it was

12 Lieutenant Detective Downey that it was

13 their understanding that this gentleman fled

14 the country.

15 Q. What charge was brought against him?

16 A. I don't know.

17 Q. Do you know if this investigation remains

18 opened or is it closed?

19 A. I believe the investigation is open and

20 active.

21 Q. You mentioned that there were a lot of

22 issues around 11 Newport Street in December

23 of 2000 and January of 2001, why don't you

24 tell me what the, the first incident that

Page 68

1 you can recall from that time period, when

2 was that?

3 A. It was the latter part of December 2000

4 concerning a no heat complaint.

5 Q. Which apartment was that related to?

6 A. Apartment No. 1.

7 Q. That's where Ms. O'Shea was?

8 A. Yes.

9 Q. How did you become aware of that?

10 A. I called home and there was a message on my

11 voicemail that the heat had gone down on

12 Newport Street, Apartment No. 1.

13 Q. Who had left that message?

14 A. Someone within the O'Shea household.

15 Q. What did you do in response?

16 A. I immediately called there and they said

17 that there were two inspectors on the scene

18 then.

19 Q. You called the member of the O'Shea

20 household who had left a message?

21 A. Yeah, I just called the O'Shea household and

22 made an inquiry concerning a no heat

23 situation, and they said "Well, there's two

24 inspectors here now," and I said "Could I

17 (Pages 65 to 68)

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1 speak to one of them."  
 2 Q. Did you do that?  
 3 A. Yes.  
 4 Q. Who was that inspector?  
 5 A. Inspector Stephen O'Donnell.  
 6 Q. What was the substance of your conversation  
 7 with him?  
 8 A. That there was no heat and that basically  
 9 that the heat had gone down, they're without  
 10 heat, and I said "Well, what can I do to  
 11 mitigate it?" It was, I believe, Saturday  
 12 afternoon around 4:30, five o'clock,  
 13 somewhere in that neighborhood.  
 14 Q. Do you know what date it was?  
 15 A. I'm going to say December 23. Sunday was  
 16 the 24th, Monday was the 25th. I'm going to  
 17 say it was December 23.  
 18 Q. What was Mr. O'Donnell's response to your  
 19 question about what could be done to  
 20 mitigate?  
 21 A. I said "Well, can we -- obviously it's late  
 22 in the afternoon Saturday, can we get some  
 23 heaters in there to keep the place warm,"  
 24 and he said "Sure, that would be fine," and

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1 I said "Obviously I'm not in the area now  
 2 but I'm on my way back in to the city to  
 3 deal with the issue," and I left my sister's  
 4 home, we were having pre-Christmas dinner, I  
 5 left my sister's home and made my way back  
 6 into the city, but before I got to the city  
 7 I had stopped at Home Depot and picked up  
 8 some space heaters and proceeded to the  
 9 property.  
 10 Q. Where does your sister live?  
 11 A. Canton.  
 12 Q. Each apartment must have its own furnace,  
 13 right, is that right, you tell me?  
 14 A. They do, yes.  
 15 Q. How old was the unit that heated  
 16 Ms. O'Shea's apartment?  
 17 A. It wasn't that old. I want to say maybe  
 18 eight years old.  
 19 Q. Had you had previous problems with it?  
 20 A. No.  
 21 Q. Was there any further conversation with Mr.  
 22 O'Donnell besides what you described?  
 23 A. Yes.  
 24 Q. What was that?

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1 A. The initial phone call or thereafter?  
 2 Q. Within that same phone call that you're  
 3 describing now.  
 4 A. I said "Obviously I'm on my way back in.  
 5 I'll pick up the space heaters. It's  
 6 Saturday evening, tomorrow's Sunday, and  
 7 hopefully I'll see you when I get there. If  
 8 I have any problems I'll call you."  
 9 Q. Was he there when you arrived?  
 10 A. No.  
 11 Q. Was anybody from Inspectional Services  
 12 there?  
 13 A. No.  
 14 Q. Did you ever talk to the other inspector who  
 15 Ms. O'Shea's family member had indicated was  
 16 present?  
 17 A. No.  
 18 Q. Do you know who that was?  
 19 A. No.  
 20 Q. When you arrived what did you find?  
 21 A. I rang the door bell, Mrs. O'Shea answered  
 22 the door, I said "Hello, Mrs. O'Shea. I'm  
 23 sorry about your problems. Here, I got some  
 24 space heaters that I spoke with the

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1 inspectors about and I'd like to put them in  
 2 the unit, and she said "I don't want --  
 3 everything's fine here." She said  
 4 "Everything's fine." I said "Everything's  
 5 fine?" I said "They tell me the heat's out  
 6 here and I'd like to come in." She said  
 7 "No, you can't. Everything's fine."  
 8 Q. Was she alone? Did you see any others in  
 9 the apartment?  
 10 A. There were others in the apartment. I  
 11 didn't know -- obviously I never got through  
 12 the front door, but I knew obviously there  
 13 were other people there.  
 14 Q. Anybody that you recognize?  
 15 A. Like I said, I didn't get through the front  
 16 door. She just kept it open maybe two or  
 17 three inches. She never even fully opened  
 18 it.  
 19 Q. Is it your understanding that Ms. O'Shea or  
 20 one of her family members made a complaint  
 21 to ISD about the lack of heat?  
 22 A. Yes.  
 23 Q. Tell me what happened next.  
 24 A. Obviously I said "Listen, I'd like to get in

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1 the apartment, I heard you have no heat. I  
 2 have these space heaters I just purchased.  
 3 Obviously I want you to keep warm." "I  
 4 don't need any space heaters. Everything is  
 5 fine. I have the gas stove on."  
 6 Q. What was your response to that?  
 7 A. "Mrs. O'Shea, listen, I need to get into the  
 8 apartment, and I really wish that you would  
 9 take these space heaters," and she said "No,  
 10 everything's fine."  
 11 Q. You hadn't had any previous problems with  
 12 Ms. O'Shea, correct?  
 13 A. No, just what I had mentioned earlier. I  
 14 had some concerns about who was living there  
 15 and who wasn't living there and any  
 16 shenanigans that were going on down there, I  
 17 was hearing different stories, but I was  
 18 attempting to affirm some of them.  
 19 Q. I think you said earlier this was the first  
 20 complaint that she made about you to ISD  
 21 that you're aware of?  
 22 A. Yes.  
 23 Q. You hadn't initiated any kind of actions  
 24 against Ms. O'Shea up to this point in her

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1 tenancy, correct?  
 2 A. No.  
 3 Q. So what did you do after that?  
 4 A. What can you do at that hour Saturday? I  
 5 went home and I sat and I thought and I said  
 6 "Well, I'm going to call Stephen O'Donnell."  
 7 Q. About what time was it now?  
 8 A. I don't know, 8:30, maybe nine o'clock.  
 9 Q. Did you call him?  
 10 A. I did.  
 11 Q. What was the substance of that conversation?  
 12 A. I called him on the cell phone and he said  
 13 to me "Lincoln, what do you want me to do?"  
 14 "What do I want you to do? I have these  
 15 space heaters, you're telling me there's no  
 16 heat down there, I'd like to get these space  
 17 heaters into the unit. We discussed this,  
 18 you told me it would happen." "Listen,  
 19 Lincoln, I'm at the Hanover Mall. I'm  
 20 Christmas shopping. What do you want me to  
 21 do? There's nothing I can do for you."  
 22 Q. Where is her furnace located?  
 23 A. In the basement.  
 24 Q. Did you go down and take a look at the

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1 furnace?  
 2 A. I couldn't get into the basement.  
 3 Q. Why is that?  
 4 A. Doors were locked.  
 5 Q. You don't have keys to the doors? Well, I  
 6 guess my question is, do you need to enter  
 7 Ms. O'Shea's apartment in order to access  
 8 the basement?  
 9 A. That's one way of accessing the basement,  
 10 but no, you can access the basement from the  
 11 back common hallway.  
 12 Q. So why didn't you access the basement via  
 13 that route?  
 14 A. The back door was locked. The screen door  
 15 was locked and the back door was locked.  
 16 Q. That door is not a part of any particular  
 17 tenant's apartment, correct?  
 18 A. Correct.  
 19 Q. You don't have keys to those doors?  
 20 A. No. The -- like I said, the screen door was  
 21 locked. For the most part the only one that  
 22 really used that back door was Mrs. O'Shea  
 23 because it went out on to a porch into the  
 24 yard and she was obviously an older woman

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1 and it was kind of her turf, if you will.  
 2 Q. So the screen door has one of those switches  
 3 that you turn the lock, but it doesn't have  
 4 a key to go with it?  
 5 A. Right, and the back door was locked too  
 6 because that is always locked.  
 7 Q. Well you must have had a key to that door,  
 8 wouldn't you?  
 9 A. No.  
 10 Q. Don't you need as a landlord to be able to  
 11 get access to your building for all kinds of  
 12 reasons?  
 13 A. I guess at some point in time the lock was  
 14 changed. I don't know if one of  
 15 Mrs. O'Shea's son's changed it or what.  
 16 Q. Did you ask Ms. O'Shea for access to the  
 17 basement aside from coming into her  
 18 apartment to put in space heaters?  
 19 A. Yes, I said "I'd like to get in. I want to  
 20 go down into the basement." She said "No,  
 21 not now."  
 22 Q. Did she tell you that she would give you  
 23 access at another time?  
 24 A. No, but I did call her again.

19 (Pages 73 to 76)



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1 Q. When was that?  
 2 A. The following day, and actually I spoke to  
 3 Stephen O'Donnell that night, and when he  
 4 told me that there wasn't anything he could  
 5 do because he was Christmas shopping I was a  
 6 little upset about that, and then I sat and  
 7 thought for a little bit and I ended up  
 8 calling the mayor's 24 hour service here at  
 9 City Hall and asked who the inspector was on  
 10 duty.  
 11 Q. The Constituent's Service Hotline, I think  
 12 they call it?  
 13 A. Yes, I called that evening.  
 14 Q. Who did they say was on duty?  
 15 A. They didn't tell me. They said we'll have  
 16 someone call you.  
 17 Q. Did anybody call you?  
 18 A. Yes.  
 19 Q. Who was that?  
 20 A. I forget the gentleman's name. Nally maybe.  
 21 Q. Paul Nally?  
 22 A. Maybe, I forget. I can't honestly answer  
 23 that.  
 24 Q. What did he tell you?

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1 A. At this point in time it's probably 11:30 at  
 2 night, "Lincoln, there's nothing we can do  
 3 if she doesn't give you access." I said  
 4 "Well, you know, obviously I have some  
 5 concerns here, you know. I'm trying to  
 6 mitigate and resolve the problem and."  
 7 Q. Did you disagree with that statement that  
 8 there was nothing that they could do for  
 9 you? What would you have liked them to do?  
 10 A. Earlier in the evening I would anticipate  
 11 that they would have gotten me some sort of  
 12 access into there if there was a pressing  
 13 issue with respect to the heat that, you  
 14 know, in their official capacity that they  
 15 would have been able to get Mrs. O'Shea to  
 16 say "Yeah, you know, we need to get in here  
 17 and resolve this."  
 18 Q. Do you mean by force of persuasion or are  
 19 you suggesting that they have some sort of  
 20 lease power that could compel her to let you  
 21 into her apartment despite her objections?  
 22 A. To be honest with you, I'm not familiar with  
 23 what power the inspector has or what he or  
 24 she may have. It would just stand to reason

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1 that if they were there earlier that they  
 2 would follow-up and meet me at the property.  
 3 In fact, I requested Stephen O'Donnell  
 4 please come down and meet me at the  
 5 property.  
 6 Q. They're there at the request of the tenant  
 7 originally, that's your understanding,  
 8 correct?  
 9 A. I guess that's how it happened.  
 10 Q. The tenant represents that she's happy, what  
 11 further could they do for you?  
 12 A. I don't know, that's their job.  
 13 Q. Was your concern that you were going to be  
 14 liable in some way with ISD for something  
 15 that Ms. O'Shea was not permitting you to  
 16 address?  
 17 A. No, I was just trying to be a good landlord.  
 18 Q. So you were trying to keep Ms. O'Shea happy?  
 19 A. Sure.  
 20 Q. I'll show you another document. There's  
 21 George's copy and one for you. Do you  
 22 recognize that document? (Indicating.)  
 23 A. Yes, I do.  
 24 Q. What do you recognize it as?

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1 A. It's a City of Boston Inspectional Services  
 2 Department Code Violation or Notice of  
 3 Violation and it's of an emergency nature.  
 4 Q. When did you first see this document?  
 5 A. I don't know.  
 6 Q. Was it posted when you arrived at the  
 7 property that evening?  
 8 A. No.  
 9 Q. Do you know if you saw it on December 23?  
 10 A. No.  
 11 Q. I don't know, I'm looking for you to tell  
 12 me. In your experience how do you normally  
 13 receive this type of document?  
 14 A. Normally it would be -- something like this  
 15 would be served by a constable.  
 16 Q. But you don't recall how this document  
 17 reached you or when?  
 18 A. No. I know I never received it on  
 19 December 23, I know that.  
 20 Q. Do you know when you did receive it?  
 21 A. I don't.  
 22 Q. Does this document appear to be related to  
 23 the events that we just described?  
 24 A. Yes.



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- 1 Q. This is actually, I guess, a three-page  
2 document. I'm looking at the first page  
3 under the "Violation" heading, it says "BFD  
4 shut down furnace due to soot build up." Do  
5 you have an understanding as to whether the  
6 fire department was present on the scene  
7 that day?
- 8 A. My understanding was the fire department was  
9 there.
- 10 Q. Do you know who summonsed the fire  
11 department?
- 12 A. No, nor did I ever receive any abatement  
13 order or anything from the fire department,  
14 so I don't know whether they were there or  
15 they weren't there.
- 16 Q. Did you return to your home at some point on  
17 December 23?
- 18 A. Yes.
- 19 Q. At Willis Street?
- 20 A. Yes.
- 21 Q. If you look at Page 2, which is the flip  
22 side of the first page, would you agree with  
23 me that it indicates that this was served by  
24 leaving a copy at your residence, which is

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- 1 listed on the front of the sheet as 6 Willis  
2 Street, it says it was posted interior front  
3 hall door. Do you recall if that was in  
4 fact posted at that location when you  
5 returned to your home?
- 6 A. It was not.
- 7 Q. Do you know Leslie Cristos, the individual  
8 whose name is signed on this document?
- 9 A. No.
- 10 Q. You hadn't had past dealings with Inspector  
11 Cristos?
- 12 A. Not that I recall, no.
- 13 Q. At some point did you get an opportunity to  
14 examine the furnace for Unit No. 1?
- 15 A. Yes.
- 16 Q. When was that?
- 17 A. I can't recall.
- 18 Q. Was it within the same week?
- 19 A. Within a couple of days, yes.
- 20 Q. I'm looking again at the "Violation"  
21 description. It says "Heating facilities  
22 not properly maintained. BFD shut down  
23 furnace due to soot buildup. Vent in unit  
24 has soot buildup. Also repair/replace

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- 1 furnace. Clean soot from forced hot air  
2 vents inside unit, bathroom, living room and  
3 right bedroom." First of all, did I read  
4 that accurately? In other words, is that  
5 what it says?
- 6 A. Yes.
- 7 Q. Did you have an opportunity to examine the  
8 furnace and the vents and so forth?
- 9 A. I never got into the unit. I eventually did  
10 get into the basement.
- 11 Q. You never did get into the unit?
- 12 A. No, not for sometime thereafter.
- 13 Q. When you examined the furnace did it in fact  
14 have soot buildup?
- 15 A. I can't comment. I'm not an HVAC guy.
- 16 Q. Did you have a contractor who serviced the  
17 furnace for you as a result of the notice?
- 18 A. I replaced the furnace.
- 19 Q. Did your contractor tell you that there was  
20 no soot buildup?
- 21 A. He told me that the furnace needed to be  
22 replaced.
- 23 Q. Was anything ever done regarding the  
24 remaining issues listed in No. 1 which would

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- 1 be the cleaning soot from the vents inside  
2 the unit, bathroom, living room and bedroom?
- 3 A. Yes.
- 4 Q. Who did that for you?
- 5 A. I hired a contractor.
- 6 Q. Was it the same individual who did the  
7 furnace?
- 8 A. No.
- 9 Q. Did they ever tell you if that was in fact  
10 accurate, that there was soot in the vents?
- 11 A. They didn't say one way or the other. I  
12 guess my course of action was to resolve any  
13 problems that existed down there and made  
14 the necessary calls to resolve it.
- 15 Q. No. 2 in the violations list has to do with  
16 minimum temperature requirements and it  
17 records temperatures that Inspector Cristos  
18 took in the unit, is that what it says  
19 there?
- 20 A. Yes.
- 21 Q. Then No. 3 is on the third page and it says  
22 "No working smoke detectors inside unit,  
23 rear common area hall, first and second  
24 floors, install working smoke detectors."

21 (Pages 81 to 84)

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1 Was that accurate that there were no working  
2 smoke detectors in those areas?  
3 A. No, there were working smoke detectors in  
4 the area. Obviously there were batteries in  
5 there. I don't know what happened to the  
6 batteries, if anything, but there were  
7 detectors there, though.  
8 Q. You know there were detectors but you don't  
9 know if they were working?  
10 A. They were working when I put them in and  
11 obviously they were working when there was  
12 an inspection done on the property and I  
13 don't know if they were working -- I can  
14 only assume that they were in fact working  
15 as their intended use when they were  
16 installed on December 23.  
17 Q. When were they installed?  
18 A. I don't know.  
19 Q. The inspection that you mention was in  
20 February, is that right?  
21 A. Which inspection?  
22 Q. You had just mentioned an inspection earlier  
23 in which the property was certified, is that  
24 for Section 8 purposes?

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1 A. Yes, there was Section 8 and there was also  
2 Inspectional Services Department inspected  
3 the property under CMR's for habitability.  
4 Q. If I could direct your attention to  
5 Exhibit 1, which was your interrogatory  
6 answers, and at Page 3, Question No. 3  
7 was -- I'm sorry, Question No. 4, "Please  
8 provide the date of inspection and  
9 certification of the condition of the  
10 property as described in Paragraph 12 of the  
11 complainant's complaint," and the answer is  
12 February 6, 2000. Is that the inspection  
13 that you just referred to?  
14 A. Yes.  
15 Q. So you know that the smoke detectors were  
16 working approximately ten months prior to  
17 the date of this notice of violation,  
18 correct?  
19 A. Minimum.  
20 Q. Had you tested the smoke detectors since  
21 then?  
22 A. Yes.  
23 Q. When do you think was the last time you  
24 tested the smoke detectors?

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1 A. Probably sometime in the fall. I can't give  
2 you an exact date to be honest with you.  
3 Q. So you know that they were working at some  
4 point in the fall but you don't know if they  
5 were working or not on December 23?  
6 A. I believe they were working and I believe  
7 they were there, yes.  
8 Q. On what basis do you believe that they were  
9 working?  
10 A. When I was on the property I check them.  
11 Not that I was there every week, but when I  
12 had occasion to be at the property I would  
13 grab a broomstick or whatever and make sure  
14 that the smoke detectors were working in the  
15 common areas and that's the best I can do.  
16 Q. Sure, but given that, it may be that they  
17 ceased functioning sometime between the last  
18 time you poked it with a broomstick and  
19 December 23, right?  
20 A. I can't -- you know, I wasn't down there  
21 December 23. I don't check the smoke  
22 detectors every single day.  
23 Q. Do you have any reason to believe that any  
24 of the violations that Inspector Cristos

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1 wrote up on December 23 were inaccurate?  
2 A. Do I believe they were inaccurate?  
3 Q. Right.  
4 A. Obviously the heating system was not working  
5 on December 23, we know that based on what  
6 the Inspector O'Donnell had told me. With  
7 respect to Line Item No. 2, based on the  
8 temperature, I guess it is what it is. I  
9 have no idea.  
10 Q. So there were issues --  
11 A. I can just take it for face value of what it  
12 is. I was trying to resolve the problem  
13 down there and mitigate any problems that  
14 were there on December 23.  
15 Q. So aside from any difficulties that you had  
16 remedying the problem, you don't dispute  
17 that there was a problem?  
18 A. There was obviously a problem, yes.  
19 (Document dated 12/23/00 marked  
20 Exhibit No. 2 for Identification.)  
21 Q. We discussed this December 23 incident in  
22 response to my question about what was the  
23 first incident that you remember from this  
24 time period. Do you recall an incident

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1 which arose prior to this one?  
 2 A. With Mrs. O'Shea?  
 3 Q. In 11 Newport Street.  
 4 A. There was an issue prior to that with  
 5 Palmira Williams, yes.  
 6 Q. What was that all about?  
 7 A. Again, it had to do with some -- it stemmed  
 8 from the ongoing issue of people living  
 9 there that shouldn't be living there, and it  
 10 just, I don't know if it was, just prior to  
 11 this incident there was something going on  
 12 with Palmira Williams, I don't recall  
 13 exactly what it was.  
 14 Q. Do you recall an issue about a bathroom sink  
 15 with a leak from pipes?  
 16 A. May very well be, yes.  
 17 MR. CHERNETSKY: Go off for a  
 18 second.  
 19 (Discussion off the record.)  
 20 Q. How about, do you recall an issue around  
 21 that time in Ms. Williams's apartment  
 22 related to dampness in one of the bedrooms?  
 23 A. I don't recall. There may very well have  
 24 been, yes.

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1 Q. I'm going to put another document out for  
 2 you. Do you recognize that document?  
 3 (Indicating.)  
 4 A. Yes, I've seen this.  
 5 Q. Do you recall when you first saw it?  
 6 A. I don't.  
 7 Q. Now that -- take a moment, I guess, to look  
 8 at it and then tell me if that refreshes  
 9 your recollection at all of the problems  
 10 with Ms. Williams's apartment?  
 11 A. Yes.  
 12 Q. What is your memory now that you've had a  
 13 chance to look at that, aside from what you  
 14 told me before?  
 15 A. With respect to No. 1 --  
 16 Q. Just to clarify, I guess, there's two --  
 17 A. 1 and 2.  
 18 Q. So that's the second page of the document?  
 19 A. No, it's the first page.  
 20 Q. Let me see if we have the same documents.  
 21 Why don't you read it for us so it will be  
 22 clear.  
 23 A. With respect to No. 1, "Bathroom sink has an  
 24 active leak from pipes. Locate source of

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1 leak and repair."  
 2 Q. Was that accurate, was there a leak in  
 3 Ms. Williams's pipes?  
 4 A. No, it was a brand new sink, brand new  
 5 vanity prior to Ms. Williams moving in, and  
 6 as we previously discussed, the unit was  
 7 inspected not only by the City of Boston  
 8 Inspectional Services Department with  
 9 respect to meeting the minimum standards of  
 10 code violations but also the Boston Housing  
 11 Authority, so it had two inspections and the  
 12 apartment was brand spanking new.  
 13 Q. You would agree with me, wouldn't you, the  
 14 fact that there was no leak on February 6  
 15 doesn't mean that there was no leak on  
 16 December 20?  
 17 A. It's very difficult to reconcile that to be  
 18 quite honest with you. When you put in a  
 19 brand new vanity and a brand new sink and  
 20 you have a brand new unit, usually those  
 21 type of things do not happen unless they're  
 22 done intentionally.  
 23 Q. When did you first become aware of these  
 24 issues with her apartment?

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1 A. I can't answer that.  
 2 Q. I know you testified that you don't recall  
 3 when you saw this document, but you somehow  
 4 became aware of these issues with the  
 5 apartment?  
 6 A. Sometime thereafter, yes.  
 7 Q. How was it that you became aware?  
 8 A. They come into my possession somehow.  
 9 Q. Did you find a copy of this notice on your  
 10 door at 6 Willis Street on December 20,  
 11 2000?  
 12 A. No, not that I recall.  
 13 Q. You became aware of these issues through  
 14 some other means?  
 15 A. Yes.  
 16 Q. What were those?  
 17 A. I honestly -- they came into my possession  
 18 somehow, I can't answer that.  
 19 Q. Did Ms. Williams contact you about these  
 20 problems?  
 21 A. No.  
 22 Q. At no point she contacted you about these  
 23 issues?  
 24 A. No.

23 (Pages 89 to 92)

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1 Q. So you must have become aware of them  
2 through the Inspectional Services, right?  
3 A. Right, yes.  
4 Q. How about the second of the -- after the  
5 sink, which you just read for us, there's an  
6 indication "Middle bedroom is infected with  
7 gnats," which I think is a misspelling,  
8 "from chronic dampness and an active leak in  
9 ceiling. Exterminate entire unit to  
10 eliminate gnats throughout." Did you  
11 inspect the premises after you became aware  
12 of these issues, however it was that you  
13 became aware of them?  
14 A. At one point in time I did, yes.  
15 Q. Within the same week at least?  
16 A. Within two weeks I'd say. A lot was going  
17 on at the property, again, at the end of  
18 December, around the holidays, with the no  
19 heat complaint, so I was down there actively  
20 probably for a good couple of weeks.  
21 Q. What was the first time that you can recall  
22 attempting to enter Ms. Williams's apartment  
23 to investigate these complaints?  
24 A. I can't tell you. Obviously it was the

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1 latter part of December.  
2 Q. She let you into the unit to take a look at  
3 these issues?  
4 A. Yes, I was with someone. I believe I may  
5 have been with -- I can't answer that  
6 honestly. I was with someone.  
7 Q. It's not that she refused you entrance into  
8 the unit as Ms. O'Shea had?  
9 A. She did deny me access to her unit on a  
10 number of occasions, including possibly this  
11 one after the incident with Carlos Lima,  
12 obviously I was pretty reluctant to go  
13 there.  
14 Q. But that's several weeks after this so?  
15 A. There was a little hostility there going on  
16 because of a number of people living there  
17 that shouldn't have been living there in  
18 violation of the lease.  
19 Q. When you did get into the apartment, did you  
20 observe a dampness problem in the middle  
21 bedroom?  
22 A. No, and with respect to -- I know you had  
23 mentioned the misspelling in the violation  
24 with respect to gnats.

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1 Q. I don't know, it says N-a-t.  
2 A. I don't know what it is either, so I can't  
3 comment on it if I don't know what it is.  
4 Q. It's a small flying insect of some type.  
5 Did you observe any insects in the unit?  
6 A. The only insects that I observed flying  
7 around were from her empty beer bottles and  
8 wine bottles from the back porch.  
9 Q. That wasn't in the middle bedroom, though,  
10 right?  
11 A. No.  
12 Q. Did you take a look at the middle bedroom?  
13 A. I must have. Like I said, there were a lot  
14 of issues going on at that time. My main  
15 concern, obviously, was to get heat into the  
16 building. I must have. If that was  
17 presented to me I'm sure I did.  
18 Q. Did you observe an active leak in the  
19 ceiling in the middle bedroom?  
20 A. I can't recall.  
21 Q. How about water stains on the ceiling?  
22 A. I don't recall.  
23 Q. Did you observe that the ceiling was in  
24 danger of collapsing?

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1 A. No.  
2 Q. Did you ever make any repairs in Ms.  
3 Williams's apartment related to this notice  
4 of violation?  
5 A. Myself personally, no.  
6 Q. Did you cause any repairs to be made?  
7 A. When I was given these notices of order,  
8 obviously I engaged the services of vendors  
9 and contractors and just gave it to them and  
10 said "Go through and do what needs to be  
11 done."  
12 Q. What did they do?  
13 A. I don't know. Obviously they addressed what  
14 had to be done. I just gave it to them and  
15 said "This is what's out there. Work  
16 within."  
17 Q. Have you forgotten what they did in  
18 particular or you never asked?  
19 A. No, I had given them the violations that  
20 were presented to me by constable. At one  
21 point in time I was served notices to  
22 correct these violations by constable at my  
23 home. I believe it was, I don't know, on or  
24 around December 28, somewhere around there,



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1 and thereafter, obviously, I was dealing  
 2 with contractors. I said "Make sure  
 3 everything is up to code and the way it  
 4 should be."  
 5 Q. Did any of your contractors ever come to you  
 6 with this notice of violation dated 12/20  
 7 and say "Gee, Mr. Smith, I'm not able to  
 8 find these leaks"?  
 9 A. No.  
 10 Q. As far as you know is this listing of  
 11 problems accurate?  
 12 A. I can't comment on that.  
 13 Q. Do you know Inspector Evangeline Davis?  
 14 A. I do.  
 15 Q. Did you know her in December of 2000?  
 16 A. Yes.  
 17 Q. What interactions had you had with her prior  
 18 to this?  
 19 A. Inspector Davis did the pre-rental  
 20 inspection for 11 Newport Street and  
 21 approved it.  
 22 Q. Had you had problems with Inspector Davis  
 23 before this?  
 24 A. We had some issues.

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1 Q. What were those?  
 2 A. I don't recall to be honest with you.  
 3 Q. Do you have any reason to believe that  
 4 Inspector Davis was inaccurate in listing  
 5 these violations on December 20, 2000?  
 6 A. I believe Ms. Davis -- there are some issues  
 7 with Ms. Davis that I don't think she's  
 8 accurate.  
 9 Q. Those are related to another violation,  
 10 though, correct? I'm asking only now about  
 11 December 20, 2000.  
 12 A. Again, I don't believe that Ms. Davis is  
 13 accurate in her reporting.  
 14 Q. Specifically addressing these violation, do  
 15 you have a specific reason to believe that  
 16 any of the violations listed here are not  
 17 true?  
 18 A. Like I said, I cannot comment on that. I  
 19 gave it to a contractor. If in fact there  
 20 was a violation, I ordered that it be  
 21 corrected.  
 22 Q. As you said before your contractor never  
 23 came to you and said "I never found the leak  
 24 in the ceiling, can you help me find it," or

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1 anything like that?  
 2 A. I don't question my contractors that way. I  
 3 have faith -- honestly, I believe in people,  
 4 and I generally don't do business with  
 5 people that aren't forthcoming or honest, so  
 6 if I send a contractor there, I engage their  
 7 services, I have faith that they'll do what  
 8 needs to be done and it will be resolved.  
 9 Q. So your answer to that is no, you don't  
 10 recall any conversation to that nature?  
 11 A. That's what I said.  
 12 MR. CHERNETSKY: Let's mark this  
 13 document as Exhibit 3.  
 14 (Document dated December 20, 2000  
 15 marked Exhibit No. 3 for Identification.)  
 16 Q. What was the next issue that you can recall  
 17 arising in that part of December 2000?  
 18 A. We had the no heat issue. Thereafter we had  
 19 the issue in Mrs. O'Shea's apartment that  
 20 was a result of the no heat issue, and  
 21 that's it.  
 22 Q. I think that in discussing the no heat issue  
 23 we haven't reached the end of that story,  
 24 would you agree? You told us about what

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1 happened on December 23, but there was more,  
 2 wasn't there? Go ahead and tell me what  
 3 happened after you were denied entry to  
 4 Ms. O'Shea's apartment on the 23rd.  
 5 A. Well, we already discussed what happened on  
 6 the 23rd, I was denied access. December 24,  
 7 I got a call from Mrs. O'Shea's son and left  
 8 a voicemail message informing him,  
 9 basically, he said "You're F-ing dead. I'm  
 10 going to F-ing kill you."  
 11 Q. Was that Mr. Lima?  
 12 A. No, that was Stephen O'Shea.  
 13 Q. He was the son that had been your tenant  
 14 previously?  
 15 A. That I had evicted as well. And "If there's  
 16 not F-ing heat in that apartment I'm going  
 17 to F-ing kill you."  
 18 Q. That was a message and not a telephone  
 19 conversation?  
 20 A. That was a voicemail message that was left  
 21 for me Saturday. Actually, even prior to  
 22 getting that message I had called  
 23 Mrs. O'Shea on the, I believe at this point  
 24 in time, the 24th being Sunday, I called

25 (Pages 97 to 100)

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1 Mrs. O'Shea Sunday morning. I said  
 2 "Mrs. O'Shea, listen, this is Lincoln. I  
 3 would really appreciate it if you take these  
 4 space heaters. You know, it's going to get  
 5 cold out and the gas stove just isn't going  
 6 to do it for you. Please take these space  
 7 heaters," and she said "Everything's fine  
 8 here, Lincoln, don't worry about it," and I  
 9 remember it distinctly because then I  
 10 myself, I went to South Shore Plaza to pick  
 11 up some last minute Christmas items, and I  
 12 came home and there was a voicemail message  
 13 on my machine from her son Stephen that said  
 14 he was going to F-ing kill me.  
 15 Q. He identified himself on the message?  
 16 A. He did.  
 17 Q. You had evicted him from his --  
 18 A. Yes.  
 19 Q. He was in No. 3?  
 20 A. Yes. For non-payment.  
 21 Q. Did you report that threat to anybody?  
 22 A. Yes.  
 23 Q. When did you do that?  
 24 A. Probably that afternoon when I received it.

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1 Q. To who?  
 2 A. I believe to the Boston Police.  
 3 Q. Police officers came and spoke to you at  
 4 your residence?  
 5 A. Yes.  
 6 Q. That would be the 24th of December?  
 7 A. I believe so, yes.  
 8 Q. What happened next?  
 9 A. That was Sunday. Obviously that was late in  
 10 the afternoon and nothing happened  
 11 thereafter. I mean, the next day was  
 12 Christmas.  
 13 Q. Right, Christmas was a Monday.  
 14 A. Christmas was a Monday. Obviously, you  
 15 know, I was in contact with my contractor  
 16 and he obviously needed to order a new  
 17 furnace, and he ordered the new furnace on  
 18 Tuesday which would be the 26th.  
 19 Q. At this point you hadn't had access to the  
 20 basement still?  
 21 A. No, I was down into the basement sometime --  
 22 Q. When did you get access to the basement?  
 23 A. Probably sometime on the 24th I was in the  
 24 basement.

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1 Q. Did you determine on the 24th that -- was  
 2 your contractor there as well on the 24th?  
 3 A. I don't know when he was, but he was there  
 4 at some point in time.  
 5 Q. He agreed that the furnace needed to be  
 6 replaced?  
 7 A. He told me that we needed a new furnace,  
 8 yes.  
 9 Q. Was the delay just due to the holiday and  
 10 difficulties in Harrington transacting that  
 11 kind of business over the holidays?  
 12 A. What delay?  
 13 Q. Well, the 24th you told me that your  
 14 contractor said you needed a new furnace --  
 15 A. I said I got access in there on the 24th  
 16 myself and got into the basement, and my  
 17 contractor at some point in time was at the  
 18 property as well.  
 19 Q. When do you think that was?  
 20 A. I don't know exactly.  
 21 Q. Well he certainly was there on the 26th?  
 22 A. Without a doubt. He ordered a new furnace  
 23 on the 26th which was Tuesday.  
 24 Q. Go ahead. What else do you remember?

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1 A. That's about it. I mean, he ordered the new  
 2 furnace on December 26, Tuesday, the first  
 3 business day, and I believe he picked it up  
 4 Wednesday, Wednesday afternoon, somewhere  
 5 around there.  
 6 Q. The 27th?  
 7 A. Yeah, and he had sent some contractors over  
 8 to pull, or some of his workers over to pull  
 9 out the old furnace, and at that point in  
 10 time he was denied access, his workers were  
 11 denied access to the basement.  
 12 Q. Did your --  
 13 A. He was denied access to the basement by  
 14 Kevin Joyce and the Inspectional Services  
 15 Department.  
 16 Q. When did you become aware that Inspectional  
 17 Services was on the property again?  
 18 A. From my contractor.  
 19 Q. Just for clarity, when you're referring to  
 20 your contractor, are you referring to  
 21 Mr. Francis Grant from the Comfort Heating  
 22 Company?  
 23 A. Yes.  
 24 Q. Every time you mention your contractor in

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1 relation to this heat incident that's who  
 2 you're talking about?  
 3 A. In this particular matter, yes.  
 4 Q. How did you become aware that anybody from  
 5 Inspectional Services was on the property on  
 6 the 27th?  
 7 A. He called me. He said his workers called  
 8 him.  
 9 Q. "He" is Mr. Grant?  
 10 A. Yes, and he said "I have some guys down in  
 11 front of the building and they're going in  
 12 to take the furnace out but they've been  
 13 denied access."  
 14 Q. What did you do in response to that?  
 15 A. I said "Denied access? By whom?" He said  
 16 "I'm on my way there now. I'm on Columbia  
 17 Road. My understanding is it's Inspectional  
 18 Services Department and Kevin Joyce is there  
 19 himself."  
 20 Q. You were at home?  
 21 A. I was actually at my mother's house.  
 22 Q. Did you in fact go to the Newport Street  
 23 property?  
 24 A. Yes, I did.

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1 Q. That was in response to Mr. Grant's  
 2 telephone call?  
 3 A. Yes, I told Mr. Grant I'd meet him there.  
 4 Q. What happened when you arrived?  
 5 A. Well, when I arrived there, Kevin Joyce was  
 6 there with a number of inspectors.  
 7 Mr. Grant was there with a number of his  
 8 workers. There was a company there by the  
 9 name of Dory Fuel, they had people there,  
 10 and first impressions to me was "What in the  
 11 world is going on here with all these  
 12 people?"  
 13 Q. Do you have an understanding as to how  
 14 Inspectional Services came to be at your  
 15 property on that day?  
 16 A. My understanding is that Mr. Joyce was aware  
 17 that Lincoln Smith had a property at  
 18 11 Newport Street that did not have any heat  
 19 and he obviously took it upon himself, both  
 20 in his official and personal capacity, to  
 21 respond.  
 22 Q. Is it your understanding that Ms. O'Shea or  
 23 Stephen O'Shea contacted Inspectional  
 24 Services?

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1 A. It's not my understanding.  
 2 Q. You know that that's not the case?  
 3 A. I don't know. All I know is I was trying to  
 4 put in a furnace and my contractors were  
 5 denied access by Kevin Joyce.  
 6 Q. But you don't know how it is that  
 7 Inspectional Services came to be at your  
 8 property on the 27th?  
 9 A. I would assume that they were following up  
 10 with the no heat complaints.  
 11 Q. So what happened after you arrived?  
 12 A. You know, I said "What's going on here?"  
 13 Q. To Mr. Joyce?  
 14 A. To everyone. My contractor's there and  
 15 we're all standing around and I said "Hey,  
 16 what's the problem?" My contractor says  
 17 they're denying us access to the building  
 18 and he had the new furnace on the back of  
 19 his truck at that point in time because his  
 20 workers he sent beforehand to pull out the  
 21 old furnace, and I said "What do you mean  
 22 denying you access," and I looked at Kevin  
 23 Joyce, Commissioner Joyce, and I said  
 24 "What's this all about? What are you doing

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1 denying -- we're putting a new furnace in  
 2 here." No, you're not." I said "Maybe  
 3 you're missing something here. We have a  
 4 problem with no heat, I have a contractor  
 5 here, we have a furnace here, and you're  
 6 telling me we're not putting in a new  
 7 furnace?" "That's exactly what I'm telling  
 8 you." I said "Let's make one thing  
 9 perfectly clear, this is my building.  
 10 You're not going to tell me who or what  
 11 contractor I'm going to have at my  
 12 property."  
 13 Q. Did Mr. Joyce articulate any rational for  
 14 that statement to you?  
 15 A. He said he hired Dory Fuel.  
 16 Q. Did he say why?  
 17 A. To get the heat up and going.  
 18 Q. Did he indicate to you that you had been  
 19 derelict somehow in remedying the situation?  
 20 A. Made reference to the fact that I wasn't  
 21 timely, I didn't do it quick enough.  
 22 Q. Did you have any further conversation with  
 23 Mr. Joyce?  
 24 A. Just basically that, you know, we were going

27 (Pages 105 to 108)

Page 109

1 to put the furnace and my contractor had a  
 2 conversation with him and, you know, said if  
 3 you start that old furnace up you're going  
 4 to have carbon monoxide go through the  
 5 building.  
 6 Q. That was Mr. Grant himself?  
 7 A. Yeah.  
 8 Q. Did you yourself have any further  
 9 conversation with Mr. Joyce?  
 10 A. Yeah, I said "What are you doing, Kevin?  
 11 What's this all about?"  
 12 Q. What did he respond?  
 13 A. He just smiled and he smirked and he said  
 14 "I'm taking care of business."  
 15 Q. Anything else that you can recall that you  
 16 and he discussed?  
 17 A. I discussed the fact that my contractor was  
 18 going to go in there and install that new  
 19 furnace that I had purchased.  
 20 Q. Anything else?  
 21 A. At that point in time, no.  
 22 Q. Any other conversations with Mr. Joyce on  
 23 that day?  
 24 A. I told him he was wrong.

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1 Q. What did he say?  
 2 A. I'm taking care of business here. I said "I  
 3 didn't realize you knew -- I didn't realize  
 4 you were a licensed heating contractor. I  
 5 didn't know you had HVAC experience. I  
 6 thought you were an attorney, Mr. Joyce."  
 7 Q. In addition to what you told me so far about  
 8 your conversation, is there any other  
 9 conversation that you had with him on that  
 10 day that you haven't told me about yet?  
 11 A. No. Obviously my goal and objective was  
 12 very clear and that was to install the new  
 13 furnace, get it up and running and resolve  
 14 any problems that were going on there and  
 15 not belabor the point. I just wanted to be  
 16 compliant.  
 17 Q. I understand. Have you now told me all of  
 18 the conversations that you had with Mr.  
 19 Joyce, have you described them all to me?  
 20 A. To the best of my ability now. I don't have  
 21 any recall. There may have been some other  
 22 conversations that took place but that was  
 23 the thrust of it, to get the furnace  
 24 installed and get it up and running.

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1 Q. Did you have any conversations with any  
 2 other individuals from the City or  
 3 Inspectional Services in particular on that  
 4 day?  
 5 A. They were all there.  
 6 Q. Did you have conversations directly with any  
 7 other individuals other than Mr. Joyce?  
 8 A. What's his spokesperson's name?  
 9 Q. You have to tell me if you know.  
 10 A. It will come to me.  
 11 Q. John Dorsey?  
 12 A. Yeah, Mr. Dorsey.  
 13 Q. You had a conversation with Mr. Dorsey?  
 14 A. Well, he was there.  
 15 Q. If you want to tell me who was there go  
 16 ahead and do that and then maybe we'll talk  
 17 about what you talked about?  
 18 A. I don't know all these guys personally, but  
 19 I come to know, obviously, Mr. Dorsey  
 20 afterwards knowing that Mr. Dorsey was Kevin  
 21 Joyce's public relations guy.  
 22 Q. So you recognize Mr. Dorsey and --  
 23 A. I recognized the name that he was the person  
 24 who would market stories to newspapers, that

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1 he was a public relations guy that would  
 2 market things to newspapers to make  
 3 Mr. Joyce look good.  
 4 Q. Tell me if this is fair. You recognized an  
 5 individual on December 27 who you later  
 6 learned was Mr. Dorsey?  
 7 A. I knew the name, that's correct, and I  
 8 connected the dots.  
 9 Q. You recognize Mr. Joyce?  
 10 A. Yes.  
 11 Q. Are there other individuals who were present  
 12 at the scene on that day from the City who  
 13 were known to you and whose names you could  
 14 tell me?  
 15 A. I don't recall. I don't know.  
 16 Q. There were other individuals but they  
 17 weren't people who were known to you who you  
 18 recognized, correct?  
 19 A. Right now, no.  
 20 Q. So you now told me about every conversation  
 21 that you had with anybody from the City on  
 22 that day?  
 23 A. To the best of my ability. I'm sure there  
 24 were other conversations but it was a number



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1 of years ago and, you know, again the main  
2 focus was getting heat into the building and  
3 there were various conversations. I can't  
4 tell you each and every single one of them.

5 MR. OHLSON: Could we have a word?

6 MR. CHERNETSKY: Sure.

7 (Recess.)

8 MR. CHERNETSKY: We're back on the  
9 record after a short break and Mr. Smith was  
10 telling us what he remembers about  
11 conversations he had with Mr. Joyce on  
12 December 27, 2000.

13 Q. Is there anything that you haven't told me  
14 about yet that you want to tell me about  
15 now?

16 A. Like I said, there were a lot of things  
17 going on at the time and various  
18 conversations, and my main focus was  
19 obviously to get the furnace in there and a  
20 new one installed and Mr. Joyce was just  
21 very, I can't think of the exact word I want  
22 to use, he was making remarks like "I'm  
23 going to treat you just like I've treated  
24 Cliff Davis."

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1 Q. Did he work on that case?

2 A. He was very much privy to it, yes. He was  
3 privy to the litigation with the City and  
4 was very cognizant of the litigation that I  
5 had with the City and worked with Judge  
6 Quinlan and was her law partner.

7 Q. Was he her partner or was he her associate,  
8 do you know the difference between the two?

9 A. They shared space. I don't know what their  
10 relationship was, but obviously their  
11 relationship was very close and their  
12 relationship was tight.

13 Q. He worked for her, is that your  
14 understanding?

15 A. I believe he worked for her or they were  
16 partners or they shared the same office  
17 suite. Their offices were side by side and  
18 they were very, very close.

19 Q. Well there's great disparity between the  
20 things you're mentioning, and you may not  
21 know that, but I just want to know if you  
22 had an understanding --

23 A. Kevin Joyce without a doubt and clearly and  
24 distinctly was aware of the litigation that

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1 Q. Who's that?

2 A. Slumlord, and started making those type of  
3 remarks, and "I'm going to treat you just  
4 like I treated Cliff Davis," and I just --  
5 my main goal and objective was just to be  
6 compliant, get the furnace in, get the  
7 people some heat, and that's all I wanted to  
8 do.

9 Q. You knew Mr. Joyce before this day?

10 A. Yes.

11 Q. How long had you known him?

12 A. I've known Kevin Joyce for -- I mean, I  
13 don't know him personally. I mean, I know  
14 of him and he knows of me and we've had  
15 dealings. I've known him for 15 years.

16 Q. Do you remember in what context you first  
17 met him?

18 A. He was Regina Quinlan's law partner.

19 Q. When was that?

20 A. 1986.

21 Q. He was working with Judge Quinlan at the  
22 time that she was your attorney in the case  
23 against the City?

24 A. Yes.

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1 I had with the City of Boston and Regina  
2 Quinlan and Robert Consalvo who he also  
3 knows very well.

4 Q. This was widely reported in the newspapers  
5 and such at the time, right, that you won a  
6 jury verdict against the City?

7 A. That's why Robert Consalvo's name was in  
8 there because Mr. Joyce is obviously close  
9 with Mr. Consalvo as well.

10 Q. Why is that? What's their relationship?  
11 What's your understanding of their  
12 relationship?

13 A. Their relationship is they worked together  
14 years ago for a state senator by the name of  
15 Joseph Timulty who was a developer who was  
16 eventually, as we know he was indicted for  
17 fraud, and they worked together,  
18 Mr. Consalvo, Kevin Joyce -- and this was  
19 obviously before my time but I am cognizant  
20 of the fact that there's a relationship  
21 between Quinlan, Joyce and Consalvo.

22 Q. When did you become aware of a relationship  
23 between Quinlan and Consalvo?

24 A. I'm aware of the relationship between

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1 Consalvo and Joyce.  
 2 Q. So there's no relationship that you know of  
 3 between Quinlan and Consalvo?  
 4 A. Well, obviously my unlawful termination was  
 5 at the same law firm, and without a doubt  
 6 that doesn't --  
 7 Q. You told me you're not sure if Kevin Joyce  
 8 and Quinlan were in the same law firm or if  
 9 they were sharing office space, is that  
 10 right?  
 11 A. I don't want to split hairs over it to be  
 12 honest with you.  
 13 Q. Well, there's quite a difference.  
 14 A. Well, I don't want to split hairs but I do  
 15 want to make it perfectly clear that  
 16 obviously they were in business together or  
 17 they shared the same office space. They  
 18 were associates, they worked side by side  
 19 with each other, and Kevin Joyce was without  
 20 a doubt cognizant and aware of the  
 21 litigation between Lincoln Smith versus the  
 22 City of Boston and Robert Consalvo.  
 23 Q. A lot of people were aware of that  
 24 litigation, though, correct, it was no

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1 secret?  
 2 A. I don't know, you tell me.  
 3 Q. It was reported in the newspaper, wasn't it?  
 4 A. Probably by Mr. Dorsey.  
 5 Q. Well Mr. Dorsey wasn't working at ISD at the  
 6 time of your lawsuit with the City, was he?  
 7 A. I don't know.  
 8 Q. He's a pretty young man, isn't he?  
 9 A. I can't comment.  
 10 Q. Any other things about your personal  
 11 relationship with Mr. Joyce that you believe  
 12 would motivate wrongdoing on his part  
 13 against you?  
 14 A. With respect to the no heat and the  
 15 entourage of inspectors and the targeting of  
 16 me?  
 17 Q. Yes.  
 18 A. No, it is what it is.  
 19 Q. So let me make sure I understand. Your  
 20 belief is that the fact that you had been  
 21 the plaintiff in the lawsuit against the  
 22 City and won a jury verdict against the City  
 23 and Mr. Consalvo, who was an associate of  
 24 Mr. Joyce, you believe that that played some

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1 role in Mr. Joyce's carrying out his duties  
 2 as commissioner of ISD in the manner in  
 3 which he did, is that fair?  
 4 A. I can't answer that. Obviously it would  
 5 appear to be contemporaneous in nature.  
 6 Q. Well are you alleging that or not? I mean,  
 7 you've brought a lawsuit and you're here to  
 8 tell us the basis of your lawsuit.  
 9 A. Could you rephrase the question.  
 10 Q. Are you alleging that Mr. Joyce's execution  
 11 of his duties as ISD commissioner were  
 12 affected by his knowledge of your prior  
 13 lawsuit against the City and Mr. Consalvo?  
 14 A. In retaliation, yes.  
 15 Q. Any other basis on which you believe  
 16 Mr. Joyce was retaliating against you other  
 17 than your lawsuit against the City and  
 18 Mr. Consalvo?  
 19 A. Well it's obviously against the City with  
 20 respect to the worker's compensation matter.  
 21 As you're aware, Kevin Joyce, Commissioner  
 22 Joyce, was in fact a lawyer here in your  
 23 department, he was assistant corporation  
 24 counsel, and he was very well aware of the

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1 litigation that was going on.  
 2 Q. But I'm aware of litigation that you're  
 3 bringing against the City, do you think I'm  
 4 going to develop a vendetta against you now?  
 5 A. No, but the relationship of course is  
 6 somewhat different between Kevin Joyce and  
 7 Regina Quinlan and also Robert Consalvo with  
 8 respect to the nexus, if you will.  
 9 Q. I understand. So aside from Mr. Joyce's  
 10 knowledge of the lawsuit that you had  
 11 against Mr. Consalvo and the City, also you  
 12 believe that the fact that you had a dispute  
 13 with Judge Quinlan about her handling of  
 14 your worker's compensation matter, that  
 15 would be a second rationale for his  
 16 retaliation against you?  
 17 A. Yes.  
 18 Q. Now we have those two. Are there any other  
 19 bases on which you believe that Mr. Joyce  
 20 was motivated to retaliate against you?  
 21 A. Based on the fact that he was an attorney  
 22 here in corporation counsel's office and he  
 23 was aware at that particular time of the  
 24 litigation that was going on.

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1 Q. Why would that bother Mr. Joyce?  
 2 A. Because of his personal relationships with  
 3 the individuals.  
 4 Q. That's what we just said. Aside from those  
 5 two relationships, is there any other that  
 6 you haven't told me about?  
 7 A. Just the fact -- made reference to the fact  
 8 that he was going to treat me like Cliff  
 9 Davis and every other slumlord in the City  
 10 and one of the ten worst landlords in the  
 11 City, and made reference to being one of the  
 12 worst ten landlords in the City, and "We'll  
 13 see, we're going to get you," and words to  
 14 that effect.  
 15 Q. What was your understanding of the Cliff  
 16 Davis reference?  
 17 A. My understanding of the Cliff Davis issue,  
 18 and I don't know too much about Cliff Davis  
 19 to be honest with you, except what I too  
 20 read in the newspapers, that Mr. Davis was a  
 21 landlord who, it's my understanding, I've  
 22 never met him, he's a black gentleman who  
 23 owns apartment buildings that have been  
 24 known to be troublesome to Inspectional

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1 Services, and my interpretation at that time  
 2 and still remains today that we're going to  
 3 do to you exactly what we did to Cliff Davis  
 4 and put him out of business, and that's  
 5 effectively, it's my understanding only from  
 6 what I read in the newspapers, that that's  
 7 what they did, they drove him out of  
 8 business, and Kevin Joyce said to me "I'm  
 9 going to treat you just like Cliff Davis."  
 10 Q. Do you have any reason to believe that the  
 11 treatment Mr. Davis received was in anyway  
 12 different than what he deserved?  
 13 A. I can't comment on that.  
 14 Q. So when Mr. Joyce said he's going to treat  
 15 you like Cliff Davis, for all you know he's  
 16 going to enforce the law against you,  
 17 correct?  
 18 A. I just base that assessment on what I read  
 19 in the newspaper and nothing more.  
 20 Q. Is there anything else about December 27,  
 21 2000 that you want to tell me that you  
 22 haven't so far?  
 23 A. No.  
 24 Q. I have another document. Do you recognize

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1 that document? (Indicating.)  
 2 A. I do, yes.  
 3 Q. What do you recognize it as?  
 4 A. It's a Notice of Violation to 11 Newport  
 5 Street, Apartment No. 1, dated December 27,  
 6 2000.  
 7 Q. That's Ms. O'Shea's apartment?  
 8 A. It is.  
 9 Q. When do you recall receiving that?  
 10 A. I don't recall exactly when I received it.  
 11 Q. You did receive it though at some point?  
 12 A. Yes.  
 13 Q. Would you agree that this document, in the  
 14 violation section, lists 11 violations  
 15 related to Ms. O'Shea's apartment?  
 16 A. Yes.  
 17 Q. When you received this document, whenever  
 18 that was, did you take any action with  
 19 regard to these violations?  
 20 A. Yes.  
 21 Q. What was that?  
 22 A. I had a contractor to remedy the situation,  
 23 including, you know, washing the walls and  
 24 cleaning the walls of soot that was

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1 allegedly there as a result of the  
 2 malfunctioning of the furnace.  
 3 Q. Did you personally inspect the apartment  
 4 with regard to these violations?  
 5 A. I was there when the contractor was there  
 6 washing the walls, so I stopped by, yes.  
 7 Q. Are you aware of any of these 11 violations  
 8 which is in your judgment false?  
 9 A. It is what it is. The furnace had  
 10 malfunctioned and my understanding was as a  
 11 result of the malfunctioning furnace there  
 12 was some soot, referred to as a puffback of  
 13 some kind, and we were moving expeditiously  
 14 to remedy the situation, hired a contractor  
 15 and he went in and washed the walls.  
 16 Q. So you remedied these violations but they  
 17 are accurate as written?  
 18 A. It is what it is.  
 19 Q. Is that a yes or no?  
 20 A. Obviously it is what it is. If in fact the  
 21 furnace did malfunction, which it did, it  
 22 needed to be replaced, which eventually it  
 23 was. If this was the aftermath of the  
 24 situation I resolved it.

31 (Pages 121 to 124)



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1 Q. But you're not maintaining that these are  
2 false?  
3 A. No.  
4 Q. I'd just like to ask you about -- this time  
5 I do have one for you, George.  
6 MR. OHLSON: Okay.  
7 Q. Do you recognize this document, and it's a  
8 two-page document? (Indicating.)  
9 A. Yes, I do.  
10 Q. When do you recall receiving this document?  
11 A. Must have been December 28.  
12 Q. Who was Ms. Fothergill?  
13 A. She's the director of policy and planning  
14 according to this letter.  
15 Q. At least she was on December 28, 2000?  
16 A. Yes.  
17 Q. Do you know if she's still employed in that  
18 capacity?  
19 A. No, she's not.  
20 Q. Is part of your allegations in this lawsuit  
21 related to this document?  
22 A. Yes.  
23 Q. How so?  
24 A. Well it was a document that was delivered to

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1 me by two constables, not one, on the  
2 evening of December 28 at approximately 8:30  
3 in the evening, and served with this, which  
4 you don't have attached to it --  
5 Q. I may have it right here. Is this what you  
6 had in mind? (Indicating.)  
7 A. Let me take a peek. I believe this was it.  
8 Q. You started to describe it, so why don't you  
9 finish that. Attached to it was?  
10 A. Attached to it was -- this was of course a  
11 Notice of Violation issued by the  
12 Inspectional Services Department served by  
13 constable on December 28.  
14 MR. CHERNETSKY: We should probably  
15 note for the record that this document that  
16 I've put before you that you've just  
17 described says on the top of it Exhibit A.  
18 That's unrelated to this deposition, that's  
19 a designation that your attorney has made in  
20 another context, so just so we don't have  
21 any confusion. We may as well go ahead and  
22 mark it as an exhibit.  
23 (Notice of Violation dated  
24 12/27/2000 marked Exhibit No. 4 for

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1 Identification.)  
2 (Notice of Violation from  
3 Ms. Fothergill marked Exhibit No. 5 for  
4 Identification.)  
5 (Document marked Exhibit No. 6 for  
6 Identification.)  
7 MR. CHERNETSKY: Just so we're  
8 clear, Exhibit 4 was December 27, 2000  
9 Notice of Violation and we just marked as  
10 No. 5 the Notice of Violation from  
11 Ms. Fothergill which Mr. Smith has just  
12 described for us. As well as No. 6, I'm not  
13 sure how many pages, let's see, I believe  
14 12 pages of -- you tell me what they are,  
15 Exhibit 6.  
16 A. Well what I'm reading here is based on this  
17 Notice of Violation dated December 28 it  
18 says on or about December 27 inspectors from  
19 the Boston Inspectional Services Department  
20 conducted an inspection of the above  
21 referenced property and of course the above  
22 referenced property is No. 6 Willis Street,  
23 they have it listed as No. 6 Willis Street,  
24 so there's obviously something wrong with

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1 that.  
2 Q. That's Exhibit 5 that you're looking at,  
3 right?  
4 A. No -- I'm looking at Exhibit 5, it says "On  
5 or about December inspectors from the Boston  
6 Inspectional Services conducted an  
7 inspection of the above referenced  
8 property," meaning No. 6 Willis Street.  
9 Q. You were deceived by that? You didn't know  
10 what property they meant?  
11 A. But there was no --  
12 Q. But Exhibit 6 you told me was attached, and  
13 on every page there it says 11 Newport  
14 Street, were you really confused about --  
15 A. No, we know it was obviously No. 11 Newport  
16 Street.  
17 Q. Okay. Go ahead. What is the significance  
18 of the fact that two constables brought you  
19 the document rather than one?  
20 A. No significance, probably just working  
21 together.  
22 Q. Okay.  
23 A. Of course the document speaks for itself and  
24 it ends by saying "I recommend you refer



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1 this matter to your legal representative,  
 2 since legal is anticipated if the violations  
 3 are not corrected in a timely manner," and  
 4 it's signed by Julie Fothergill, Esquire,  
 5 attorney, obviously, for what I assumed was  
 6 the Boston Inspectional Services Department.  
 7 And attached to it was these lists of  
 8 violations that they said that they found on  
 9 or about December 27.  
 10 Q. Are you alleging anything in particular  
 11 about Ms. Fothergill's signature on this  
 12 document?  
 13 A. I can't speak for Ms. Fothergill.  
 14 Q. You've listed Ms. Fothergill as a witness in  
 15 this case, right?  
 16 A. Julie Fothergill will be a witness in this  
 17 case, yes.  
 18 Q. What is she going to testify to?  
 19 A. I don't know what she'll testify to.  
 20 Q. Well you have an obligation to identify to  
 21 us who your witnesses are and what they're  
 22 going to say. Do you have an understanding  
 23 of what Julie Fothergill's testimony will  
 24 be?

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1 A. I have no idea what Ms. Fothergill's  
 2 testimony will be.  
 3 Q. Do you recall talking to detectives from the  
 4 Boston Police Department's Anti-Corruption  
 5 Unit regarding this case?  
 6 A. Yes. With respect to the Fothergill issue,  
 7 I don't know, this was the official notice  
 8 that was given to me, and, you know,  
 9 obviously, I don't know if this is a legal  
 10 document or if it isn't a legal document.  
 11 Q. Is there something else about the document  
 12 that you found significant?  
 13 A. I guess it is what it is.  
 14 MR. OHLSON: Do you mind if we go  
 15 off the record for a minute?  
 16 MR. CHERNETSKY: No, not at all.  
 17 (Recess.)  
 18 MR. CHERNETSKY: We're back on the  
 19 record after a short recess.  
 20 Q. Go ahead. Do you have any amendments to  
 21 your previous answers after your break?  
 22 A. Obviously we were speaking about this  
 23 violation, this Notice of Violation dated  
 24 December 28.

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1 Q. Exhibit 5?  
 2 A. Correct, which came from the Inspectional  
 3 Services Department and it was signed by  
 4 Julie Fothergill, Esquire, and  
 5 Ms. Fothergill was Kevin Joyce's second in  
 6 command, if you will, and my understanding  
 7 is that this is not Julie Fothergill's  
 8 signature.  
 9 Q. Does the signature represent itself as Julie  
 10 Fothergill's signature when you look at it?  
 11 A. It is signed by somebody other than Julie  
 12 Fothergill.  
 13 Q. Is it correct that to the right of the  
 14 Esquire there are somebody's initials?  
 15 A. There appears to be the initials LT, which I  
 16 believe is Lisa Timberlake.  
 17 Q. What is your understanding of who Lisa  
 18 Timberlake is?  
 19 A. She's an assistant to Kevin Joyce.  
 20 Q. So would you agree that the document then  
 21 appears to be signed by Lisa Timberlake in  
 22 Julie Fothergill's name?  
 23 A. It appears that someone signed Julie  
 24 Fothergill's name, yes.

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1 Q. What is the significance of that to you?  
 2 A. The significance of that to me is I don't  
 3 know if this documentation is worth the  
 4 paper it's written on, if in fact someone  
 5 who is a non-attorney signing an attorney's  
 6 name in an official capacity has any real  
 7 meaning to it.  
 8 Q. So it's your belief that that's an unusual  
 9 thing, for somebody else to sign somebody's  
 10 name and initial with their initials?  
 11 A. It's very unusual. It's my -- in that type  
 12 of capacity -- I mean, it's obviously a  
 13 legal notice that was served by a constable  
 14 and it's signed by an attorney with  
 15 attachments, and I know that Ms. Fothergill  
 16 didn't sign this document.  
 17 Q. The document represents that Ms. Fothergill  
 18 did not sign it, correct?  
 19 A. She did not sign that document, no.  
 20 Q. Is it your belief that the fact that  
 21 somebody else signed Ms. Fothergill's name  
 22 and initialed it somehow invalidates this  
 23 document?  
 24 A. It's a legal notice and it says, you know,

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1 obviously it is anticipated that violations  
 2 are not corrected in a timely manner that  
 3 the Inspectional Services Department will be  
 4 taking legal actions, that was what was  
 5 implied by me and it was signed by an  
 6 attorney, being Julie Fothergill, so is she  
 7 the one who's going to take the action being  
 8 an attorney.  
 9 Q. Have you discussed this document with  
 10 Ms. Fothergill?  
 11 A. Yes.  
 12 Q. What did she say about this document?  
 13 A. Ms. Fothergill has advised me she didn't  
 14 authorize anybody to sign her name to any  
 15 documentation coming out of Inspectional  
 16 Services Department.  
 17 Q. When did you have that conversation with  
 18 her?  
 19 A. Probably within the last couple of months.  
 20 Q. Did you know Ms. Fothergill prior to that  
 21 conversation?  
 22 A. Yes, I know Julie Fothergill.  
 23 Q. In what context did you know her?  
 24 A. I knew Julie Fothergill when she was a legal

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1 intern for the corporation counsel office,  
 2 and I also knew Ms. Fothergill as an  
 3 attorney and as an employee of the City who,  
 4 again, worked for the City of Boston Law  
 5 Department and also worked for Kevin Joyce  
 6 down in the Inspectional Services  
 7 Department.  
 8 Q. Did Ms. Fothergill tell you that she  
 9 remembered this document or did she tell you  
 10 that in a general way she hadn't given  
 11 permission for her name?  
 12 A. Ms. Fothergill told me that No. 1, she  
 13 didn't sign this document, and No. 2, that  
 14 she didn't believe that what the City of  
 15 Boston, and namely Kevin Joyce in  
 16 particular, was doing to me was correct,  
 17 that Kevin Joyce had targeted her and said  
 18 "We're going to Lincoln Smith's house.  
 19 Let's get him."  
 20 Q. Anything else about that that you can recall  
 21 about your conversation with Ms. Fothergill?  
 22 A. Yes, that John Dorsey and others had  
 23 contacted the local media including Terry  
 24 Adler.

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1 Q. Who is Terry Adler?  
 2 A. Terry Adler is a reporter for Channel 7  
 3 News.  
 4 Q. Did Channel 7 News, as a result, air a  
 5 story?  
 6 A. Terry Adler and her news crew came to my  
 7 home at 6 Willis Street, reviewed the  
 8 documentation. Terry Adler advised me that  
 9 she had a conversation with Julie Fothergill  
 10 and others at the Inspectional Services  
 11 Department and it was relayed to me that  
 12 Terry Adler told me something doesn't add up  
 13 here.  
 14 Q. Is that a yes or a no as to whether Channel  
 15 7 News ran a story?  
 16 A. Channel 7 News decided not to run the story  
 17 based on documentation that was provided and  
 18 after a conversation with Julie Fothergill  
 19 stating in part that it was a setup by Kevin  
 20 Joyce and the Inspectional Services  
 21 Department.  
 22 Q. Any idea why Terry Adler didn't run a story  
 23 about the scandal of a setup of a landlord  
 24 by Inspectional Services?

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1 A. I can't comment on that.  
 2 Q. It's a better story, isn't it?  
 3 A. I think Judge Dear even did a better story  
 4 than that, and I'm sure the Chief Justice of  
 5 the Housing Court has clearly dictated that  
 6 Inspectional Services Department that  
 7 they're off their mark with respect to  
 8 landlords.  
 9 Q. How is it that you came to be in contact  
 10 with the Boston Police Department's  
 11 Anti-Corruption Unit?  
 12 A. Actually the Boston Police Department's  
 13 Anti-Corruption Unit contacted me.  
 14 Q. When did they do that?  
 15 A. I don't recall to be honest with you.  
 16 Q. Did they tell you how it was that they  
 17 became aware of this incident?  
 18 A. They did. They said that they became aware  
 19 of this issue at 11 Newport Street as a  
 20 result of the newsletter by the Small  
 21 Property Owner's Association.  
 22 Q. That's run by your friend Skip Schloming,  
 23 right?  
 24 A. My friend?

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1 Q. Yeah.  
 2 A. I don't know if he's a friend. He's an  
 3 associate that I've gotten to know as a  
 4 result of this furnace issue. I consider  
 5 him a friend now, yes, but I didn't know  
 6 Skip Schloming beforehand, no.  
 7 Q. Are you aware that the Anti-Corruption Unit  
 8 opened the investigation at  
 9 Mr. Schloming's --  
 10 A. Yes.  
 11 Q. When did you first meet Mr. Schloming?  
 12 A. I don't recall the exact date to be honest  
 13 with you. I think it was as a result of a  
 14 newspaper article or something. I don't  
 15 recall.  
 16 Q. Are you a member of the Small Property  
 17 Owner's Association?  
 18 A. I was a member of the Small Property Owner's  
 19 Association. I don't know if I'm current to  
 20 be honest with you.  
 21 Q. When were you first involved with the  
 22 organization?  
 23 A. Probably 2000, 2001.  
 24 Q. To be clear, he's the head of that

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1 organization along with his wife?  
 2 A. His wife is, yes.  
 3 Q. He's at least heavily involved in the  
 4 organization, would you agree with that?  
 5 A. I believe his wife is the president of the  
 6 association and I believe Skip's role is  
 7 he's the editor of the newspaper that they  
 8 publish.  
 9 Q. You don't recall when you first met  
 10 Mr. Schloming?  
 11 A. I don't, to be honest with you, but it has  
 12 to be in 2000, somewhere around there.  
 13 Q. So it was before, at any rate, before these  
 14 incidents, particular incidents that we've  
 15 been discussing today?  
 16 A. I honestly don't recall.  
 17 Q. Mr. Schloming managed your properties for  
 18 you after your accident, is that right?  
 19 A. He did. The accident of March 8?  
 20 Q. Right.  
 21 A. Yes, he did.  
 22 Q. Was there another accident that I don't know  
 23 about?  
 24 A. No, the March 8. He in fact managed the

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1 property while I was in the hospital, yes.  
 2 Q. Both your Willis Street property and your  
 3 Newport Street property?  
 4 A. Yes.  
 5 Q. Are you familiar with the positions of the,  
 6 in the general way, that the Small Property  
 7 Owner's Association takes on landlord/tenant  
 8 issues?  
 9 A. I'm aware that it's a grassroots  
 10 organization that deals with small property  
 11 owners and issues and how it affects them,  
 12 yes.  
 13 Q. In general, do you find yourself to be in  
 14 agreement with positions that the  
 15 organization holds?  
 16 A. For the most part, yes.  
 17 Q. Do you agree that the sanitary code is too  
 18 stringent?  
 19 A. I don't know. I can't comment on that to be  
 20 honest with you. I'm not a student of the  
 21 sanitary code.  
 22 Q. Do you agree that lead paint poisoning is  
 23 not a real problem?  
 24 A. Again, I can't comment on that just due to

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1 the fact that I know there's a bunch of  
 2 different scientific studies out there that  
 3 lead down different roads, so I don't know  
 4 conclusively or scientifically what the end  
 5 result is. Of course you read about it that  
 6 yes, in fact it is a problem, and I just  
 7 don't know enough about it to -- again, I'm  
 8 not a student of the state sanitary code.  
 9 I'm not a student of the lead paint law.  
 10 Q. Subsequent to your accident and  
 11 Mr. Schloming's involvement in managing your  
 12 properties, did you become involved with the  
 13 Small Property Owner's Association in an  
 14 active way, other than reading their  
 15 newsletter?  
 16 A. No. You mean going to rallies or --  
 17 Q. Yeah.  
 18 A. Let's put it this way, I've never been to  
 19 one of their meetings. I don't know where  
 20 they meet, except from what I read in the  
 21 newsletter I guess they meet at a VFW Hall.  
 22 I don't know how large a membership it is.  
 23 Like I said, I'm not actively there banging  
 24 a drum as a member. In fact, I'm not even

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1 certain if my membership is current as we  
 2 speak.  
 3 Q. You haven't, to this day, become more  
 4 involved with them?  
 5 A. No.  
 6 Q. How is it that Mr. Schloming became involved  
 7 in managing your properties after you were  
 8 injured and unable to do that?  
 9 A. A nice guy. I mean that wholeheartedly. As  
 10 you're aware I was hurt badly and it was  
 11 touch and go there for awhile, and Skip  
 12 Schloming came to Boston Medical Center and  
 13 he identified himself to my mother and my  
 14 sister and my girlfriend, and they didn't  
 15 have any idea who he was, and he said "I run  
 16 an organization called the Small Property  
 17 Owner's Association. I read about Lincoln  
 18 and his accident and I'm awful sorry for  
 19 your troubles and I know you have other  
 20 things on your mind," is what he said to my  
 21 family and I found out thereafter, "I know  
 22 you have other things on your mind." He  
 23 said "I know that Lincoln has issues with  
 24 Inspectional Services Department that need

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1 to be resolved."  
 2 Q. How did he know that?  
 3 A. He read about them in the paper.  
 4 Q. Did he know you at that point or when he  
 5 approached your family while you were laid  
 6 up was he also unknown to you then?  
 7 A. No, I knew of Skip. I may have met him  
 8 previous to that.  
 9 Q. You didn't have a friendship or a  
 10 relationship at that point?  
 11 A. No, but I knew Skip and we had spoken, but  
 12 there wasn't any real bond or real  
 13 friendship at that point in time.  
 14 Q. So Mr. Schloming approached you or your  
 15 family after he read about these issues with  
 16 ISD in December of 2000, he became aware of  
 17 them and then he approached your family?  
 18 A. It was all within a relatively, of course,  
 19 small timeframe here, we're talking months.  
 20 Obviously, I had these issues and, you know,  
 21 in December 2000. I got struck by the truck  
 22 on March 8, 2001.  
 23 Q. So it's less than three months later?  
 24 A. There was a lot of media attention going on.

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1 Like I said Terry Adler and Inspectional  
 2 Services, they were obviously marketing this  
 3 story, and when I got hit people didn't  
 4 know -- like I said, the homicide team had  
 5 responded. They didn't know what was going  
 6 to happen. And to Mr. Schloming's credit,  
 7 and I do give him a tremendous amount of  
 8 credit, he showed up at the hospital,  
 9 identified himself to my family and said  
 10 "Listen, these are some issues that Lincoln  
 11 is dealing with or has been dealing with and  
 12 I know that this is the furthest thing from  
 13 your mind, but if it's okay with you I'll  
 14 take over and manage until some point in  
 15 time that Lincoln can get up and running  
 16 again if he ever does." No one knew at that  
 17 time if I would ever cognitively be able to  
 18 get back into the ballgame, and I admire --  
 19 because I didn't really know him. For some  
 20 guy to come to the plate like that and to  
 21 put his energies and his time and to  
 22 physically go to Boston Medical Center, I  
 23 respect him. I respect him.  
 24 Q. Mr. Schloming had not, if I understand you

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1 correctly, been involved with any of your  
 2 properties prior to your accident?  
 3 A. Physically involved, no.  
 4 Q. Mentally involved?  
 5 A. No. I mean, he obviously -- no. To my  
 6 understanding when I was sick here he was on  
 7 Newport Street. I don't know that for a  
 8 fact but that's my understanding.  
 9 Q. At the time of all the incidents that we  
 10 discussed today with no heat and all the  
 11 other issues, did Mr. Schloming have any  
 12 involvement with that?  
 13 A. No.  
 14 Q. You had not contacted Mr. Schloming for  
 15 assistance in dealing with any of your  
 16 problems with ISD prior to your accident?  
 17 A. Not that I recall.  
 18 Q. You think you may have but you forgot about  
 19 it?  
 20 A. Like I said, I had conversations with Skip  
 21 Schloming. I knew who he was. I knew the  
 22 association or the group was there. I did  
 23 communicate with him, but I don't recall at  
 24 this time as to what the subject matter was



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1 on or why.  
 2 Q. Like you said, it was a pretty short time  
 3 between these problems and your accident.  
 4 Do you know what your last contact with  
 5 Mr. Schloming, what your last contact with  
 6 Mr. Schloming was?  
 7 A. I don't, to be honest with you.  
 8 Q. So what sorts of things did he do for you in  
 9 the course of managing your property?  
 10 A. I don't know.  
 11 Q. You were seriously hurt, correct?  
 12 A. Yes.  
 13 Q. Were you in the hospital for some lengthy  
 14 period?  
 15 A. Yes.  
 16 Q. How long was that?  
 17 A. I believe I was at Boston Medical Center for  
 18 close to a month and then I went to the  
 19 acute brain injury section at Braintree  
 20 Rehab. for a month.  
 21 Q. How are you doing now?  
 22 A. Good, I hope.  
 23 Q. Basically, what kind of injuries did you  
 24 have?

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1 A. They were extensive. I have total facial  
 2 reconstruction. I have plates in my hips.  
 3 My legs had to be rebuilt. I had to learn  
 4 to do everything all over again.  
 5 Q. So obviously you were unable to carry out  
 6 your normal, not only your landlord duties  
 7 but all your daily activities and such, is  
 8 that right?  
 9 A. I extensively rehabilitated for about  
 10 18 months. I rehabilitated for 18 months in  
 11 total.  
 12 Q. So Mr. Schloming became involved with the  
 13 litigation involving Ms. Williams?  
 14 A. I believe he did, yes.  
 15 Q. What did he do in that regard for you?  
 16 A. I don't know.  
 17 Q. He's not an attorney, is he?  
 18 A. He's not an attorney. He is a licensed  
 19 builder, though.  
 20 Q. In what capacity did he assist you in that  
 21 litigation?  
 22 A. It's my understanding he kind of oversaw  
 23 some things, and being a licensed builder, I  
 24 guess he made sure that everything was to

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1 code that needed to be to code based on, I  
 2 think he was just trying to make sure  
 3 everything was resolved so I had one less  
 4 problem and I could just really focus on my  
 5 health and my family could focus on my  
 6 recovery, and I think his intentions were  
 7 very good, and I never paid him anything for  
 8 it, nor did he ever ask for payment.  
 9 Q. You were grateful for the assistance at the  
 10 difficult time?  
 11 A. At that very difficult time, and I guess I  
 12 was very humbled by the fact that when  
 13 you're down some people do come to the table  
 14 and help, and I was grateful.  
 15 Q. Was it Mr. Schloming's idea to initiate this  
 16 lawsuit against the City?  
 17 A. No.  
 18 Q. Do you recall writing Mr. Schloming and  
 19 telling him that you were grateful for his  
 20 assistance while you were injured and that  
 21 as soon as you were back on your feet you'd  
 22 join him and SPOA in fighting the battle  
 23 against corruption at ISD?  
 24 A. No, I don't recall that. I think I may have

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1 said that when I was back up and running,  
 2 landlords should be treated fairly and with  
 3 respect and dignity.  
 4 Q. Do you remember writing to him and saying  
 5 "Again, I sincerely appreciate all your  
 6 help, and you can rest assured that when I  
 7 am totally back on my feet I will be side by  
 8 side with you and SPOA to expose and correct  
 9 the injustice in the ISD system"?  
 10 A. Yes.  
 11 Q. We've had some conversation --  
 12 A. May I see that letter?  
 13 Q. Your attorney gave me the letter. If he  
 14 wants to show it to you later he can show it  
 15 to you.  
 16 A. Okay.  
 17 Q. We've had some conversation about various  
 18 media outlets and stories that were out  
 19 there. Why don't you tell me, what media  
 20 attention can you recall related to the  
 21 events of December 2000?  
 22 A. Well I'm aware that John Dorsey, after  
 23 collaborating with Kevin Joyce, had marketed  
 24 the no heat situation to Terry Adler. I

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1 know that for a fact.  
 2 Q. We discussed that already.  
 3 A. Yeah. I also know that they marketed it to  
 4 other media outlets, as well, including the  
 5 Boston Globe and the Boston Herald.  
 6 Q. Did they run articles, do you know?  
 7 A. I believe the Boston Globe did. In fact, I  
 8 know the Boston Globe did run an article  
 9 sometime between Christmas and New Year's.  
 10 Q. Tell me if this looks like to you the  
 11 article that you were thinking of.  
 12 (Indicating.)  
 13 A. Yes.  
 14 Q. Why don't you take a moment, maybe you're  
 15 very familiar with it, but if you would like  
 16 to take a moment to read it over or just  
 17 refamiliarize yourself with it?  
 18 (Boston Globe article dated  
 19 December 29, 2000 marked Exhibit No. 7 for  
 20 Identification.)  
 21 Q. Do you know who Amber Bollman is?  
 22 A. I do know who Amber Bollman is.  
 23 Q. She spoke to you before writing this  
 24 article, didn't she?

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1 A. She did, yes.  
 2 Q. Would you agree that it appears that she  
 3 also spoke to Ms. O'Shea?  
 4 A. Yes.  
 5 Q. There are quotes in here from Ms. O'Shea?  
 6 A. There is, yes.  
 7 Q. Would you agree that those quotes are at  
 8 odds with her representation to you that  
 9 everything was okay in her apartment?  
 10 A. Yes. I believe Amber Bollman at the time  
 11 was a student writer. I don't know if she  
 12 had the skill level, if you will, to make  
 13 proper inquiries.  
 14 Q. Amber Bollman doesn't have anything against  
 15 you?  
 16 A. No.  
 17 Q. One thing, the reference to Deborah O'Neil.  
 18 Is that part of your claim against Kevin  
 19 Joyce and the City today that there's animas  
 20 against you, as it says here, because of  
 21 your relationship with Deborah O'Neil?  
 22 A. What that says is, with respect to the  
 23 unlawful termination, that stems back to  
 24 that time just for clarity purposes.

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1 Q. That's why I'm asking.  
 2 A. It was regarding the unlawful termination.  
 3 Q. So part of your allegations in that lawsuit  
 4 was that one motivation for your wrongful  
 5 termination had to do with your relationship  
 6 with Ms. O'Neil?  
 7 A. That's correct.  
 8 Q. You're not alleging that that is an element  
 9 of this case, other than retaliation for  
 10 your lawsuit?  
 11 A. No, it's an ongoing issue.  
 12 Q. Is there something improper in your mind  
 13 about Mr. Dorsey speaking to the media?  
 14 A. You're going to have to rephrase that  
 15 question.  
 16 Q. Well, Mr. Dorsey is the ISD spokesman,  
 17 correct?  
 18 A. It's my understanding he's a contractor,  
 19 he's a contracted employee to deal with  
 20 media events, yes.  
 21 Q. When Amber Bollman contacted you, you talked  
 22 to her, right?  
 23 A. Yes.  
 24 Q. When Amber Bollman contacted Ms. O'Shea she

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1 talked to her it appears, correct?  
 2 A. It appears she talked to Tom Menino, the  
 3 mayor, also quoted as saying --  
 4 Q. But I'm asking you now about Ms. O'Shea, it  
 5 appears that Amber Bollman contacted Ms.  
 6 O'Shea and she talked to her?  
 7 A. If you look at the article in its entirety  
 8 with respect to quotes, obviously she must  
 9 have spoken to the mayor after the mayor  
 10 spoke to Kevin Joyce.  
 11 Q. My question is, what is it that you find  
 12 inappropriate about the fact that Ms.  
 13 Bollman also spoke to officials at the City  
 14 in the course of writing her article?  
 15 A. Well, I feel that they -- obviously, John  
 16 Dorsey, that's his job to create media  
 17 events to make people look good at someone  
 18 else's expense.  
 19 Q. What information do you have that leads you  
 20 to that conclusion?  
 21 A. He was the spokesperson and he was the  
 22 contract employee, and the intent of the  
 23 contract at that time was to be his public  
 24 relations person, that's my understanding of

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1 it.  
 2 Q. Tell me what in this article is false.  
 3 A. The whole article just about. Obviously --  
 4 I shouldn't say the whole article. I'd have  
 5 to go paragraph by paragraph. I mean, if  
 6 you want to do that I'll be willing to do  
 7 that.  
 8 Q. I just want you to tell me anything that you  
 9 see in here that's false?  
 10 A. Well obviously I bought space heaters, I  
 11 wanted to rectify the problem as quickly as  
 12 possible. Obviously I take pride in my name  
 13 and my work, and when there's certain quotes  
 14 by certain --  
 15 Q. Give me an example of that.  
 16 A. I do say this respectfully with respect to  
 17 the mayor, and I mean this is  
 18 unconscionable. How can you let a person  
 19 stay without heat for five days? It's even  
 20 worse because it's a public official,  
 21 someone who deals with public policy.  
 22 Obviously I'm troubled by that because I did  
 23 make a conscientious effort. I called the  
 24 mayor's 24-hour service the night of the

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1 incident to try to get access. I'm sure the  
 2 mayor wasn't given the total and truthful  
 3 story by Kevin Joyce and John Dorsey.  
 4 Q. So I think you said twice now that your  
 5 belief was that the mayor was given a false  
 6 impression of the events and that's the  
 7 source of that statement?  
 8 A. That and obviously based on what John Dorsey  
 9 and Kevin Joyce marketed Bollman.  
 10 Q. Do you have any information supporting your  
 11 conclusion that John Dorsey marketed  
 12 information to Amber Bollman?  
 13 A. Yes.  
 14 Q. What is that?  
 15 A. From conversations I've had with Julie  
 16 Fothergill and also with a conversation I  
 17 had with Terry Adler at Channel 7.  
 18 Q. Terry Adler didn't know what conversations  
 19 Mr. Dorsey had with Amber Bollman, did she?  
 20 She told you about her own experience with  
 21 Mr. Dorsey?  
 22 A. No, but it was the same story that was  
 23 marketed to all of the media outlets.  
 24 Q. So Ms. Adler told you her story about

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1 Mr. Dorsey and her report, you're  
 2 extrapolating that to Ms. Bollman on that  
 3 basis, but you don't know what Mr. Dorsey  
 4 did with regard to Ms. Bollman, do you?  
 5 A. Yes, it's my contention and my belief based  
 6 on conversations that I had with Julie  
 7 Fothergill and also with Terry Adler, at  
 8 that point in time, that John Dorsey  
 9 marketed the story on behalf of Kevin Joyce  
 10 and collaborating with Kevin Joyce to make  
 11 me look like a bad policy person, if you  
 12 will, and I'm troubled by that.  
 13 Q. Any other sources of information aside from  
 14 Ms. Fothergill and Ms. Adler relating to  
 15 Mr. Dorsey's relation with Amber Bollman?  
 16 A. No.  
 17 Q. Incidentally, you've listed the mayor as a  
 18 witness in this case, is that related to  
 19 this quotation?  
 20 A. Obviously the mayor is quoted as saying --  
 21 it is what it is.  
 22 Q. Is there any other information that you  
 23 believe the mayor possesses about any of the  
 24 events that we discussed today or any

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1 involvement that he had in any of these  
 2 events that you're aware of?  
 3 A. I can't speak for the mayor, but I am aware  
 4 that the mayor has a very, very close  
 5 relationship with Kevin Joyce and Robert  
 6 Consalvo.  
 7 Q. Focus on the question. The question is, are  
 8 you aware of any involvement the mayor has  
 9 with your case aside from this quotation?  
 10 A. I can't comment, I don't know.  
 11 Q. So the answer is no?  
 12 A. I don't know.  
 13 Q. The only basis on which the mayor has been  
 14 listed as a witness in this case is the fact  
 15 that he's quoted in this article, is that  
 16 correct?  
 17 A. He was obviously aware of the problem on  
 18 Newport Street based on a conversation he  
 19 had with Kevin Joyce and Kevin Joyce's  
 20 relationship with Robert Consalvo.  
 21 Q. What other facts cited here in this article  
 22 are false?  
 23 A. John Dorsey's quote "If you're gonna make a  
 24 business out of providing basic services



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1 such as housing, it's not something you can  
2 do at your own convenience, Dorsey said,  
3 it's a full-time commitment and something  
4 that should not be taken lightly."  
5 Q. You don't agree with that statement? You're  
6 a landlord, don't you agree with what he  
7 says there?  
8 A. I agree with the fact that I don't take  
9 things lightly, and he's obviously implying  
10 that after reading the article in its  
11 entirety, he's implying that I'm something  
12 other than that, that I don't take it  
13 seriously and that I do provide housing for  
14 people and that I do take it lightly, and  
15 obviously I don't agree with Mr. Dorsey's  
16 assessment when the article is read in its  
17 entirety.  
18 Q. Any other particular facts in here that you  
19 take issue with?  
20 A. Again, with Mr. Dorsey, he states that  
21 "Smith waited far too long before ordering  
22 and installing a new furnace." Obviously I  
23 thought I was very timely.  
24 Q. Each of these things that you've listed,

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1 including the mayor's statement and the two  
2 statements by Mr. Dorsey, they're not  
3 factual statements, are they, they're  
4 opinions, do you agree with that?  
5 A. They're opinions in their official capacity.  
6 Q. Anything of a factual nature in the article  
7 that's incorrect? Anything else?  
8 A. Again, we can go paragraph by paragraph if  
9 you want to start in the beginning and I'd  
10 be more than happy to do that with you.  
11 Q. I'm not trying to be difficult, but you  
12 understand that you've brought a lawsuit in  
13 which you've alleged libel, so it's an  
14 element of your case as to what is false in  
15 this case --  
16 MR. OHLSON: If I can help, I think  
17 it would be best for clarification to go  
18 paragraph by paragraph, because you're  
19 asking the question and I think that will  
20 give the best answer.  
21 A. That's why I had suggested when you read the  
22 article in its whole, in its entirety, one  
23 reasonably could conclude that I didn't do  
24 the proper thing here.

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1 Q. I understand completely the point that  
2 you're making. I just need you to, in order  
3 to understand the nature of your claim, I  
4 need to hear from you exactly what it is  
5 that you take issue with in the article. We  
6 need to make a catalog of it in order to  
7 understand your claims. We can't resolve  
8 your claims until we understand.  
9 A. I understand, and I respect your position as  
10 well.  
11 Q. Okay.  
12 A. Paragraph 1. Your question.  
13 Q. I guess we'll read it. "The City Counsel's  
14 chief research assistant, Lincoln Smith,  
15 left his 73-year-old tenant stranded without  
16 heat for five days over the icy holiday  
17 weekend, according to the City's  
18 Inspectional Services Department." You  
19 agree that's your job and that that's your  
20 job title, right? Are you the chief  
21 research assistant for the City Counsel or  
22 were you at that time?  
23 A. I am the deputy research assistant.  
24 Q. But that inaccuracy is not the basis for

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1 your libel complaint, correct?  
2 A. No, but yet inaccurate.  
3 Q. Was Ms. O'Shea without heat for five days  
4 over the holiday weekend?  
5 A. Yes.  
6 Q. So I take it that you're disagreeing with  
7 the first paragraph would be that you left  
8 her stranded without heat, correct?  
9 A. I didn't leave her stranded. I tried to  
10 mitigate and provide space heaters over  
11 Christmas for her.  
12 Q. So you take issue with the characterization  
13 by the Inspectional Services Department in  
14 that paragraph that you left her stranded?  
15 A. Inspectional Services Department said I left  
16 her stranded. We know that's not true.  
17 Q. The next paragraph is a quotation or  
18 partially a quotation. "My Christmas was  
19 horrible," said Elizabeth O'Shea, who has  
20 lived in Smith's triple-decker for three  
21 years". Did she live in your apartment for  
22 three years?  
23 A. I don't believe so, no. I'd have to look  
24 but I don't believe it was three years.



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- 1 Q. You agree that they had spoken to  
2 Ms. O'Shea, correct? You agree that it  
3 appears that Ms. Bollman spoke to Ms. O'Shea  
4 directly?  
5 A. Yes, or someone identifying themselves as  
6 Mrs. O'Shea.  
7 Q. Okay.  
8 A. I can't affirm that one way or the other  
9 because there were multiple people living.  
10 Q. Do you have any reason to believe, any facts  
11 of which you have knowledge to lead you to  
12 believe that it was an imposter who spoke to  
13 Ms. Bollman?  
14 A. I wouldn't characterize it as an imposter,  
15 but it's my belief that someone in  
16 Mrs. O'Shea's household called Inspectional  
17 Services. I'm not certain whether it was  
18 Mrs. O'Shea, it could have been her  
19 daughter.  
20 Q. Well she says here it's a 73-year-old woman,  
21 so Ms. Bollman at least spoke to somebody  
22 who at least looked like a 73-year-old  
23 woman, right?  
24 A. I don't know if Ms. Bollman saw her. I

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- 1 would assume that Ms. Bollman spoke to her  
2 on the telephone. I can't confirm that she  
3 went to 11 Newport Street and saw  
4 Mrs. O'Shea. Like myself, I'm certain she  
5 probably called.  
6 Q. Why don't you tell me anything else in that  
7 second paragraph that you think is false. I  
8 think what we need to do here is go  
9 paragraph by paragraph and hear from  
10 Mr. Smith false statements that he  
11 attributes to the City, because would you  
12 agree that some of this appears to be --  
13 there appears to be inaccuracies that appear  
14 not to be based on information from the  
15 City?  
16 A. I think this article was generated by the  
17 City.  
18 Q. The second paragraph is all attributed to  
19 Ms. O'Shea --  
20 MR. OHLSON: I think what we want  
21 to do here is exactly what you said. Your  
22 question is, is it false statements or false  
23 information from the City, then we can go  
24 paragraph by paragraph and pick out those.

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- 1 If there's none we can move on to the next  
2 paragraph.  
3 Q. Is that fair, Mr. Smith?  
4 A. Whatever.  
5 Q. We'll take it as a given that the general  
6 pattern of the article is upsetting to you  
7 and you don't agree with it. Okay? But  
8 what we need to do is figure out the  
9 particular false statements by City  
10 officials, agreed?  
11 A. Agreed.  
12 Q. I'm not going to take your silence on the  
13 general tenure of the article as you're  
14 agreeing with it.  
15 A. Agreed in part, due in part to the fact that  
16 this article was in fact generated by John  
17 Dorsey on behalf of Kevin Joyce at the  
18 Inspectional Services Department, that's how  
19 that article was written.  
20 Q. I understand that that's part of your  
21 allegation. Are we happy with the first two  
22 photographs then?  
23 A. Yes.  
24 Q. The third paragraph says "City officials say

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- 1 Smith ignored the problem until they  
2 threatened to condemn his building." Go  
3 ahead and tell me what you think about that.  
4 A. Obviously I did not agree with the problem,  
5 in fact I was right on top of it that  
6 afternoon.  
7 Q. For the reasons we've already discussed?  
8 A. Right.  
9 Q. Did somebody threaten to condemn the  
10 building?  
11 A. Yeah, Kevin Joyce threatened. He said "I'm  
12 going to close this building down."  
13 Q. The reference to Cliff Davis earlier?  
14 A. That was in addition to the Cliff Davis. He  
15 said "I'm going to shut this building down.  
16 I'm going to condemn it."  
17 Q. The next paragraph is attributed to you, do  
18 we agree with that?  
19 MR. OHLSON: So you're not asking  
20 questions about that paragraph?  
21 MR. CHERNETSKY: I don't think --  
22 if there's inaccuracies in there I don't  
23 think it would fall within the guidelines we  
24 just created of being from the City. Right?

41 (Pages 161 to 164)

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1 MR. OHLSON: Okay.  
 2 A. I don't agree with that in total, no.  
 3 MR. OHLSON: Well I guess if we can  
 4 go off the record for a second.  
 5 (Discussion off the record.)  
 6 Q. The paragraph beginning "Smith says he  
 7 offered" --  
 8 A. I did offer --  
 9 Q. You don't need to tell me about everything  
 10 in there, but just tell me is there  
 11 something in there that's false that comes  
 12 from the City?  
 13 A. "City inspector said it had not been cleaned  
 14 in two years."  
 15 Q. Okay. Next paragraph?  
 16 A. O'Shea did refuse the space heaters.  
 17 Q. Don't tell me what you agree with. Just  
 18 tell me is there anything in that paragraph  
 19 that is false that comes from the City and  
 20 if not we'll just move on without discussing  
 21 it.  
 22 A. No, that's fine.  
 23 Q. The next one we've already discussed, the  
 24 paragraph "This is unconscionably wrong"?

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1 A. Yeah.  
 2 Q. Can we move forward from that one because  
 3 we've already discussed it?  
 4 A. Yeah.  
 5 Q. "Smith, who in 1998," how about that one?  
 6 A. I was cited as one of the worst ten  
 7 landlords. That's wrong. I was cited.  
 8 Q. All it says is that you were cited as one,  
 9 so whether you were or you weren't, that's  
 10 accurate, right?  
 11 A. Okay.  
 12 Q. Next paragraph that starts "In 1990"?  
 13 A. It's true.  
 14 Q. Next paragraph, "Smith says"?  
 15 A. True.  
 16 Q. The next paragraph is entirely a quotation  
 17 from you so we can skip that one, I assume,  
 18 correct?  
 19 A. Right.  
 20 Q. The same for the next one, "Am I being  
 21 targeted"?  
 22 A. Yes.  
 23 Q. The next one we discussed already. Do you  
 24 have anything to add to that paragraph?

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1 A. Just that John Dorsey said that I waited too  
 2 long and obviously that was not true, that's  
 3 not accurate.  
 4 Q. "By Wednesday," that paragraph, anything  
 5 there?  
 6 A. I can't comment on that. I don't know what  
 7 records the Inspectional Services Department  
 8 keeps so I can't comment.  
 9 Q. So there's nothing in there that you know to  
 10 be false?  
 11 A. No.  
 12 Q. The next paragraph we've already discussed?  
 13 A. "If you're going to make a business," of  
 14 John Dorsey, again which is totally false.  
 15 Q. Next paragraph "While she waited"?  
 16 A. I can't comment on that.  
 17 Q. You don't know?  
 18 A. I don't know. I don't even believe  
 19 Mrs. O'Shea was there at that apartment at  
 20 that particular time. I was told that she  
 21 went to stay with her daughter.  
 22 Q. Do you have any reason to believe that that  
 23 information came from the City?  
 24 A. I can't comment.

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1 Q. Next paragraph, "At times," anything in  
 2 there that's false that came from the City?  
 3 A. Can't comment.  
 4 Q. You've got to tell me.  
 5 A. I don't know. I can't speak for that  
 6 statement.  
 7 Q. You don't see anything now that you know to  
 8 be false that came from the City?  
 9 A. No.  
 10 Q. Next paragraph is just a quotation from  
 11 Ms. O'Shea?  
 12 A. Yeah.  
 13 Q. Next paragraph "Smith says"? I guess the  
 14 next two paragraphs are both quotations from  
 15 you, we can skip those?  
 16 A. "Smith says he faced off against the  
 17 stubborn ISD throughout the entire episode."  
 18 I did. I was trying to be compliant.  
 19 Q. We don't need to discuss the ones you agree  
 20 with, just tell me the ones that you don't.  
 21 The next one, anything you see in there? I  
 22 just want to be cognizant of your time  
 23 concerns and such.  
 24 A. Yes and no. Obviously it says "Smith says

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1 he called the City's building inspector and  
 2 the mayor's office from Cape Cod on  
 3 Saturday." I was not on the Cape, I was in  
 4 Canton.  
 5 Q. If that was false it was because of an error  
 6 by the Globe, right, and not because the  
 7 City told Amber Bollman that you were on  
 8 Cape Cod?  
 9 A. It's my understanding that Stephen O'Donnell  
 10 may have told Kevin Joyce I was on Cape Cod.  
 11 Q. But this is a quotation attributed to you,  
 12 "Smith said he called City building  
 13 inspectors and the mayor's office from Cape  
 14 Cod"?  
 15 A. They said, Inspectional Services.  
 16 Q. It doesn't say --  
 17 A. I was in Canton.  
 18 Q. We'll agree that you don't agree that you  
 19 were on Cape Cod?  
 20 A. It says ISD officials refused to help, which  
 21 they did. I called on Saturday evening and  
 22 he was at Hanover Mall --  
 23 Q. You agree with me that there's nothing in  
 24 that paragraph that's not attributed to you?

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1 A. Right.  
 2 Q. Okay. Next one, anything in there?  
 3 A. That's true.  
 4 Q. "According to Smith," next paragraph?  
 5 A. That's true.  
 6 Q. Next paragraph, "Smith who also owns"?  
 7 A. That's true.  
 8 Q. "In 1997"?  
 9 A. That's true.  
 10 Q. That's something that we haven't talked  
 11 about, is that additional litigation in  
 12 which you were involved, or what's that all  
 13 about?  
 14 A. It was alleged that by, again, people within  
 15 this administration, that I was in violation  
 16 of the City residency requirement, and again  
 17 a retaliatory act once I was re-employed,  
 18 and I ended up in a three-day hearing here  
 19 before the Compliance Commission.  
 20 Q. Who brought that?  
 21 A. The City Personnel Department.  
 22 Q. It was a formal hearing?  
 23 A. It was a formal hearing. It was brought by  
 24 the City Personnel Department, Richard

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1 Driscoll, who was sitting on the Commission  
 2 at the time in personnel, and of course  
 3 Robert Consalvo was the personnel director,  
 4 so I think enough said in that regard.  
 5 Q. So that's another proceeding that you hadn't  
 6 told us about before. Are there any other  
 7 litigations or proceedings of any kind out  
 8 there that you haven't told us about before?  
 9 A. No. That was not a court proceeding it was  
 10 an administration.  
 11 Q. I understand. Anything like that that you  
 12 might not have thought I was asking you  
 13 about before that you haven't told me about?  
 14 A. No.  
 15 Q. There's just one left in this article then,  
 16 "In 1998 he was cited"?  
 17 A. That's false.  
 18 Q. What's false in there?  
 19 A. "Appeared on a prior list of 48 landlords  
 20 with outstanding warrants." There was an  
 21 issue in 1998, I don't remember all of the  
 22 particulars to be quite honest with you, and  
 23 I believe, again just downloading here for a  
 24 minute, if my memory serves me correct, my

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1 name did appear on a list that was  
 2 generated --  
 3 Q. Okay. Were you cited for a maintenance  
 4 violation in 1998?  
 5 A. Probably.  
 6 Q. Did you fail to show up at a trial in  
 7 Housing Court that year?  
 8 A. I was never given notice.  
 9 Q. There was a trial and you didn't come to it?  
 10 A. There was never a trial. I was never given  
 11 a notice.  
 12 Q. Separate questions. Whether you were given  
 13 notice or not, was there a trial or --  
 14 A. No.  
 15 Q. -- proceeding of some kind at which you did  
 16 not appear?  
 17 A. Does it say there was a trial?  
 18 Q. Okay. Fair enough. Whether you were there  
 19 or not and whatever reason you weren't  
 20 there, was there a trial in Housing Court  
 21 for which you did not appear?  
 22 A. There was not a trial in Housing Court in  
 23 which I did not appear.  
 24 Q. What was there?

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1 A. I don't know.  
 2 Q. Is Housing Court across from City Hall at  
 3 this time?  
 4 A. Yes, it was.  
 5 Q. So is the only issue that you have in that  
 6 paragraph the use of the word "trial"  
 7 instead of "proceeding" or something like  
 8 that?  
 9 A. There was no trial. Yes, that's correct.  
 10 Q. The reason we got into this article was I  
 11 asked you what media publications there  
 12 were. You told me about Terry Adler at  
 13 Channel 7 and this article in the Globe, are  
 14 there any others?  
 15 A. There were other articles written in Small  
 16 Property Owners Newsletter that were  
 17 written.  
 18 Q. Slandorous article in Small Property Owners?  
 19 A. No.  
 20 Q. I'm only interested in articles that are  
 21 part of your libel or slander.  
 22 A. No.  
 23 Q. Are there any other articles aside from the  
 24 Boston Globe article?

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1 A. There may be a Boston Herald article  
 2 somewhere.  
 3 MR. OHLSON: Just a question as to  
 4 the characterization of the question. We  
 5 can go off the record.  
 6 MR. CHERNETSKY: Well stay on the  
 7 record.  
 8 MR. OHLSON: That's a Boston Globe  
 9 article, the second one.  
 10 MR. CHERNETSKY: Yeah.  
 11 THE WITNESS: That's a Herald  
 12 article that contributes to the fact that --  
 13 Q. This article is about your injury, right?  
 14 A. Yeah, it references the fact.  
 15 Q. I have two articles here, one is from the  
 16 Boston Herald and it's entitled "City  
 17 counsel worker seriously hurt in hit and  
 18 run," March 10, 2001, and the other looks  
 19 like the Globe to me, I don't actually see  
 20 that anywhere, "City aid in hot water  
 21 because tenant is not". Go ahead, either  
 22 one of those contain slanderous statements  
 23 related to this case?  
 24 MR. OHLSON: You can answer if you

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1 remember.  
 2 A. Again, I think it's just a continuation of  
 3 the nucleus, if you will, that it just is  
 4 ongoing, slanderous remarks that have been  
 5 written about me and by Inspectional  
 6 Services.  
 7 Q. Your complaint in this case mentions  
 8 December 27, 2000 and the no heat complaint  
 9 and so forth?  
 10 A. Right.  
 11 Q. It doesn't go on to talk about other issues  
 12 which arose with Palmira Williams. Are  
 13 those, this hot water being an example, are  
 14 those incidents part of your lawsuit or are  
 15 those just things that happened afterwards  
 16 that are not part of the lawsuit?  
 17 A. Well, my understanding of the original  
 18 complaint that was filed dealt specifically  
 19 with the furnace and my ability to install  
 20 the furnace, but as a result of Kevin  
 21 Joyce's actions and John Dorsey acting in  
 22 his behalf as well, of course other things  
 23 stemmed from that incident on or about  
 24 December 23.

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1 Q. You understand that you haven't alleged that  
 2 previously, correct?  
 3 A. Well, I understand you, and for the record I  
 4 want to make it perfectly clear that  
 5 obviously there's been a set of events that  
 6 developed from the original event of  
 7 December 23 regarding Kevin Joyce and his  
 8 entourage of Inspectional Services employees  
 9 that developed into other issues here, and  
 10 it's very troublesome to me obviously and  
 11 one would -- I guess one would be naive to  
 12 think that these issues did not stem from  
 13 Kevin Joyce's personal visit to the  
 14 property.  
 15 Q. Are your slander and libel claims related to  
 16 events in December of 2000 or do they also  
 17 include media coverage of subsequent events  
 18 which we haven't discussed today?  
 19 A. Again, I think there's a direct linkage, if  
 20 you will, to the original event of  
 21 December 23.  
 22 Q. So if I understand you, is your objection to  
 23 characterizations of the December 2000  
 24 events which occur in these articles, even



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1 though the articles on their face are not  
2 about those events, or are you including  
3 these subsequent events with Ms. Williams in  
4 your lawsuit as themselves being causes of  
5 action?

6 A. In your answer to our interrogatories, if my  
7 memory serves me correct, you have  
8 Ms. Williams listed as a witness.

9 Q. Well, we've discussed an incident, haven't  
10 we, in December 2000 involving  
11 Ms. Williams's apartment on December 20,  
12 right?

13 A. We have.

14 Q. But there were further incidents in the year  
15 2001 with Ms. Williams which respond to  
16 their own litigation, I understand, in which  
17 do not relate directly to any events that we  
18 discussed today, which were not articulated  
19 in your lawsuit originally as themselves  
20 being the sources of causes of action  
21 against the City?

22 A. Correct.

23 Q. Is that still the case today, whether  
24 they're relevant or not for the media

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1 MR. OHLSON: What's your question?

2 Q. Well, what I think we agreed a moment ago  
3 that the incidents with the hot water are  
4 not a part of the civil rights liability  
5 theory in this lawsuit, but there may be  
6 items related to that, in coverage of those  
7 events, which are related to the slander  
8 charges and so forth, right?

9 A. That extended out from the original incident  
10 on December 23.

11 Q. So what I'm getting at is, whether you were  
12 arraigned on charges on March 9 or not --

13 A. Well obviously that's not the case because  
14 we all know on March 8 I was hit by the  
15 truck.

16 Q. Let's, rather than parse it out, go ahead  
17 and tell me anything in this article that  
18 you think is false that came from the City.  
19 So you don't agree that you were going to be  
20 arraigned on March 9?

21 A. No, I was not going to be arraigned on  
22 March 9, and subsequent, obviously, we know  
23 I was hit by the truck on March 8.

24 Q. Do you incidently know the date of this

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1 claims, do you agree that what happened with  
2 Ms. Williams later in 2001 is not the basis  
3 of your civil rights lawsuit?

4 A. Yes, that's my understanding. I think to be  
5 clear about it I think everything stems from  
6 the December 23 events.

7 Q. I understand that in covering these later  
8 events they may have made reference to other  
9 events, and to the extent that is part of  
10 your libel and slander claim, let's take a  
11 look at that. So I'm showing you, this is  
12 another Boston Globe article, and I think  
13 we'll get this done a lot faster this time.  
14 Let's take the same approach with this one  
15 that we did with the previous one.

16 (Boston Globe article entitled  
17 "City Aide in Hot Water" marked Exhibit  
18 No. 8 for Identification.)

19 Q. Go ahead.

20 A. Paragraph 1, that's false.

21 Q. That's not related to December 27, right?  
22 What we're looking for is false statements  
23 related to the subject of this lawsuit,  
24 right? You agree?

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1 article, when it ran? This is the copy that  
2 you gave us but I don't see a date on it.

3 MR. OHLSON: It might be in the  
4 answers to interrogatories.

5 Q. February 24, 2001 is the answer you gave  
6 previously, does that sound right to you?

7 A. Possibly.

8 Q. So you weren't going to be arraigned?

9 A. To the best of my ability, no.

10 Q. Do you know that to be false?

11 A. Again, to the best of my ability, I don't  
12 have any recall.

13 Q. You don't have any information?

14 A. No.

15 Q. You don't have information that that's  
16 false?

17 A. No.

18 Q. How about the next paragraph?

19 A. No, I didn't know I was going to be  
20 arraigned on March 9.

21 Q. Okay. You don't know that to be a false and  
22 slanderous statement created by the City, do  
23 you?

24 A. No.

45 (Pages 177 to 180)

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1 Q. Anything in the next paragraph that you  
2 recognize as a false statement created by  
3 the City? It appears to be a quotation  
4 attributed to the tenant, would you agree  
5 with that?  
6 A. Yes.  
7 Q. The next paragraph?  
8 A. Right.  
9 Q. Would you agree that that appears also to be  
10 attributed to the tenant?  
11 A. Yes.  
12 Q. Would you agree that the next paragraph  
13 beginning "Life is miserable" is also  
14 attributed to Ms. Williams?  
15 A. Yes.  
16 Q. How about the next paragraph that starts  
17 "This is the third complaint"?  
18 A. Obviously that was information obtained  
19 through Inspectional Services Department.  
20 Q. How do you know that?  
21 A. Elizabeth O'Shea said that she was left  
22 without heat for five days over Christmas,  
23 so that was information originally obtained  
24 through John Dorsey, I'm assuming.

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1 Q. We agreed earlier that Ms. O'Shea talked to  
2 the Globe, didn't we?  
3 A. No, we didn't. We don't know who talked to  
4 the Globe.  
5 Q. So somebody at least who represented  
6 themselves as Ms. O'Shea spoke to the  
7 Globe's Amber Bollman in December 2000,  
8 right?  
9 A. Yes.  
10 Q. "Smith is no stranger to controversy,"  
11 anything in that paragraph?  
12 A. "In 1998, he was named by the Inspectional  
13 Services to a list of the city's worst  
14 landlords."  
15 Q. You agree that that's true, right, you were  
16 named to a list in 1998, whether or not you  
17 were the city's worst landlord?  
18 A. Yes.  
19 Q. How about the rest of that?  
20 A. That's true.  
21 Q. You object to the word "trial", right?  
22 A. Yeah.  
23 Q. "Smith has been at odds"?  
24 A. That's not true.

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1 Q. What's not true?  
2 A. I haven't been at odds with City agencies.  
3 I like to think I have a good working  
4 relationship with many departments.  
5 Q. It didn't say that nobody in the City gets  
6 along with you, you have numerous lawsuits,  
7 right?  
8 A. What I do agree with, "In 1986 he was fired  
9 by former City Personnel Chief, Robert  
10 Consalvo."  
11 Q. I agree with that.  
12 A. I also agree that I was awarded \$142,000 for  
13 his illegal acts.  
14 Q. That's the next paragraph, though. You're  
15 saying that's inaccurate that you've been at  
16 odds with some City agencies for 15 years?  
17 A. Some City agencies.  
18 Q. It says "some".  
19 A. Yeah.  
20 Q. So that's not a false statement?  
21 A. No.  
22 Q. The next paragraph you said you agree with,  
23 right?  
24 A. Yeah.

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1 Q. The next paragraph begins "Smith's boss,"  
2 nothing in there?  
3 A. No, just that obviously as a result of the  
4 Globe article on January 27 they went to the  
5 Counsel president regarding that article.  
6 Q. Is there anything in that paragraph that you  
7 find to be false and that was created by the  
8 City of Boston or its employees?  
9 A. Well that paragraph in itself obviously. If  
10 the Counsel president was going to take a  
11 look at it that was generated by the Globe  
12 article that was marketed by John Dorsey.  
13 Q. I'm not asking you that. It's a very simple  
14 question. Is there anything in there that's  
15 false that you believe is false and can be  
16 attributed to the City?  
17 A. No.  
18 Q. Next paragraph "On January 9"?  
19 A. I don't know what she did.  
20 Q. You don't know about that paragraph?  
21 A. No.  
22 Q. There's nothing in there that you know to be  
23 false in other words?  
24 A. Right.

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1 Q. How about the next paragraph, "When the  
2 violations"?  
3 A. I believe that's true.  
4 Q. Next paragraph, "Spokesman John Dorsey"?  
5 A. That's obviously John Dorsey speaking again  
6 and that's based on information he has at  
7 Inspectional Services, so I'd have to --  
8 that's his position. I mean, obviously they  
9 were overlapping and the violations were, in  
10 fact, corrected but weren't closed out  
11 timely, if there were any violations.  
12 Q. So you specifically deny what in there, that  
13 her water had not been restored?  
14 A. Right. Water had been restored.  
15 Q. Anything else besides that?  
16 A. No.  
17 Q. "City inspectors plan to return again on  
18 Wednesday"?  
19 A. I can't comment on that.  
20 Q. Next paragraph?  
21 A. I can't comment on Mr. Dorsey or what he  
22 says.  
23 Q. It's a state of Mr. Dorsey's opinion in  
24 general that doesn't relate?

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1 A. Right.  
2 Q. Next paragraph?  
3 A. That's true.  
4 Q. Next paragraph is also attributed to you?  
5 A. Right.  
6 Q. Next paragraph is also attributed to you  
7 that begins "According to Smith"?  
8 A. That's true.  
9 Q. Next paragraph is also attributed to you?  
10 A. That is true. I wrote her a letter on  
11 January 25.  
12 Q. "A hearing in Boston Housing Court is  
13 scheduled for March 2"?  
14 A. That was true.  
15 Q. "Smith also pointed out," so the rest of  
16 that paragraph appears to be attributed to  
17 you?  
18 A. That is true.  
19 Q. The final paragraph starts "Williams says"  
20 and appears to be attributed to the tenant,  
21 correct?  
22 A. Yes.  
23 Q. Is this article related to your accident  
24 also, an article that you consider to have

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1 slanderous statements related to your  
2 lawsuit?  
3 A. I'd have to take a look.  
4 Q. Okay.  
5 (Boston Globe article dated  
6 March 10, 2001 marked Exhibit No. 9 for  
7 Identification.)  
8 Q. Maybe we can agree that the first three  
9 paragraphs in total all summarize the facts  
10 of your accident?  
11 A. Right.  
12 Q. Nothing in there that is of slanderous  
13 statement?  
14 A. No.  
15 Q. The next paragraph begins "Police  
16 impounded," and it does quote a City  
17 official. Is there anything in there that  
18 you think is false?  
19 A. No.  
20 Q. Anything in the "Owner of the truck"  
21 paragraph?  
22 A. No.  
23 Q. Anything in "City Counsel president"  
24 paragraph?

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1 A. No.  
2 Q. Next paragraph is a quote attributed to  
3 Mr. Yancey. Anything there?  
4 A. No.  
5 Q. Next paragraph is a quotation, anything  
6 there?  
7 A. No.  
8 Q. The next describes your injuries according  
9 to the police officers, anything there?  
10 A. No. I mean there were additional injuries  
11 but that is what it is.  
12 Q. The next paragraph describes your job and  
13 your lawsuit, anything in there?  
14 A. No, that's true.  
15 Q. The next paragraph begins the "Suffolk  
16 County Court," anything in there that's not  
17 true?  
18 A. No, that's true.  
19 Q. Next paragraph?  
20 A. That's true.  
21 Q. Next paragraph, "Two years later"?  
22 A. True.  
23 Q. Next paragraph?  
24 A. That's, I guess, true.

47 (Pages 185 to 188)

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1 Q. Next one?  
 2 A. That's the police department speaking. It  
 3 is what it is.  
 4 Q. Not something that you consider slanderous  
 5 or libelous?  
 6 A. No.  
 7 Q. The final quotation?  
 8 A. Again, it is what it is. No.  
 9 Q. So in Deposition Exhibit No. 9 then, I think  
 10 we've gotten through that entire article  
 11 without identifying any statements that you  
 12 consider to be part of your slander or  
 13 libel?  
 14 A. That's correct.  
 15 Q. Tell me about how these statements and these  
 16 articles have impacted you in anyway. How  
 17 have they done that?  
 18 A. Well, its affected me on a number of fronts  
 19 actually, from a health perspective and also  
 20 on one's professional reputation, and  
 21 thirdly, also, standing in the community,  
 22 community folks and members of the family  
 23 and stuff like that.  
 24 Q. Can you give me some examples of incidents

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1 or statements or anything that you can think  
 2 of that illustrates that for us?  
 3 A. It happens all the time. People always  
 4 reference the fact "Oh, yeah, here's the  
 5 slumlord. Oh, yeah, he's the worst landlord  
 6 in the City. Here he comes now."  
 7 Q. I'm glad you mention that because I forgot  
 8 to address that earlier. In 1998 we said  
 9 you were listed as one of the city's worst  
 10 landlords, right?  
 11 A. Yes.  
 12 Q. Kevin Joyce wasn't the inspector of  
 13 Inspectional Services at that time, would  
 14 you agree?  
 15 A. I believe he was an attorney here at your  
 16 law department at the time.  
 17 Q. So that's no?  
 18 A. Right.  
 19 Q. Mr. Ead was the commissioner then?  
 20 A. I believe it was John Ead.  
 21 Q. Any reason you believe Mr. Ead had a grudge  
 22 against you or targeted you unfairly?  
 23 A. I didn't know Mr. Ead.  
 24 Q. None that you're aware of?

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1 (Witness nods.)  
 2 Q. Is your --  
 3 MR. CHERNETSKY: Off the record for  
 4 a second.  
 5 (Discussion off the record.)  
 6 Q. So you described that people have said  
 7 "There goes the slumlord," and such  
 8 statements as that. Do you believe that  
 9 that was associated with your appearance on  
 10 the 1998 list or was it relating to the  
 11 publicity around the events in 2000?  
 12 A. I think it was surrounding -- a continuation  
 13 of '98 but reaffirmed from the events in  
 14 2000 and ongoing.  
 15 Q. Is there anybody that you can identify for  
 16 us who was with you and heard people make  
 17 these sorts of statements?  
 18 A. It comes from all different corners, so I  
 19 couldn't single anybody out, but its  
 20 obviously common knowledge that, you know,  
 21 the Inspectional Services Department has  
 22 targeted me as one of the worst landlords  
 23 and is obviously trying to make hey with it,  
 24 and it's troublesome to me professionally

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1 working in the position I'm in dealing with  
 2 various officials, not only at this level  
 3 but also at the State level, when one views  
 4 you professionally as something that you're  
 5 not.  
 6 Q. Has your name ever appeared on such a list  
 7 since 1998 that you know of?  
 8 A. I don't, just based on the fact that it  
 9 continues to be referenced most recently  
 10 regarding the Kevin Joyce matter and seems  
 11 to resurface.  
 12 Q. You mentioned interactions with State  
 13 officials who you believe were aware of this  
 14 reputation. Can you tell me anybody in  
 15 particular who you had such dealings with  
 16 and who you became aware that they --  
 17 A. No, I mean, it's sadly to say it's -- people  
 18 view it as common knowledge, you know.  
 19 Q. Do people say this to you --  
 20 A. And I'm troubled by it and I go "Well, I'm  
 21 the worst landlord in the City." I only own  
 22 a triple-decker. I don't own 500 or 1500  
 23 units of housing in the City. I own one  
 24 triple-decker with three units, nothing



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1 more, so I don't know how I can be one of  
 2 the worst landlords in the City, and it's  
 3 very, very troublesome to me. I take  
 4 tremendous pride in my name and reputation,  
 5 and my father told me many, many years ago,  
 6 the only thing you have in life is your name  
 7 and your reputation, and I'm very troubled  
 8 by this targeting and ongoing events by the  
 9 Inspectional Services Department in  
 10 retaliation regarding Kevin Joyce and the  
 11 matter surrounding that.

12 Q. We'll talk about that. For now I'm just  
 13 focussed on other people, and I understand  
 14 that, you know, there's a feeling that these  
 15 claims in the paper create within you and  
 16 how you feel about yourself and so forth,  
 17 but do people say to you "Hey, Lincoln  
 18 Smith, you're the worst landlord," do people  
 19 say that kind of thing to you face to face?

20 A. People have said it, sure.

21 Q. Can you give me an example?

22 A. I can't.

23 Q. Do you recall anybody telling you about  
 24 things that people said like that?

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1 A. People talk about it all the time, being the  
 2 worst landlord. "You left that woman down  
 3 there with no heat. What type of guy are  
 4 you?"

5 Q. Can you recall a specific individual who did  
 6 that?

7 A. You know, even people within your family say  
 8 "You wouldn't do something like that. Why  
 9 would they say something like that," and it  
 10 not only hurts me but hurts family members.  
 11 Extended family would be reading that and  
 12 say look at --

13 Q. That's an example of somebody who doesn't  
 14 believe it. Do you know any specific people  
 15 who you have heard, say or do anything that  
 16 you believe was directly related to their  
 17 having read these articles and believed  
 18 untrue things about you? Do you have any  
 19 specific person or incident that you can  
 20 describe for me?

21 A. No. People do believe it, though.

22 Q. You mentioned that also about how it made  
 23 you feel for yourself, and I believe you  
 24 said in your interrogatories that you

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1 suffered emotional injuries and  
 2 embarrassment. Can you just tell me a  
 3 little bit about that, and you started to  
 4 already but is there anything more that you  
 5 want to say about that?

6 A. Well obviously I continue to be troubled  
 7 knowing the reason why these certain things  
 8 happen, because I try to be honest and  
 9 forthcoming and it's very disheartening. It  
 10 makes you depressed, doesn't make you feel  
 11 like a very good person. You become very  
 12 anxious, and I mean, it's already clearly  
 13 established that obviously I have issues,  
 14 been diagnosed with post-traumatic stress  
 15 syndrome as a result of the Robert Consalvo  
 16 matter, and it just doesn't let up. It's  
 17 like keep hammering this guy until the point  
 18 in time that, what, you become  
 19 non-functional. I mean, it's very difficult  
 20 to get up when you're continuously punched  
 21 in the face. At some point in time you  
 22 don't get up.

23 Q. Have you had treatment related to these  
 24 feelings since?

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1 A. Sure. Yes.

2 Q. Any treatment which you had subsequent to  
 3 the events that we've discussed today  
 4 related to this lawsuit which you were not  
 5 involved in already for your post-traumatic  
 6 stress, or was it sort of a continuation and  
 7 a magnification of the same problems?

8 A. It's a continuation perhaps and to some  
 9 extent maybe an exacerbation of what's been  
 10 going on with me for a long period of time,  
 11 and at some point in time you just don't get  
 12 back up again, you know. You can only get  
 13 hit so many times before you don't get back  
 14 up on your feet again, and unfortunately the  
 15 City continues to take this tack, and namely  
 16 Kevin Joyce because of his relationship with  
 17 Consalvo and others that I need to  
 18 continuously go through this type of  
 19 unwanted and unneeded exposure that's  
 20 marketed by Inspectional Services.

21 Q. Let me go back to Exhibit 1, which was the  
 22 interrogatories. If you could flip to  
 23 Page 6, please. No. 14, toward the bottom  
 24 of the page, we asked you about physicians

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1 who treated you for conditions which  
 2 resulted from events described in your  
 3 complaint, and you've listed three doctors  
 4 here, Doctor Wolf, Doctor Keating and Doctor  
 5 Mooney. Are those individuals whom you were  
 6 treating with even for your prior  
 7 post-traumatic stress and depression or are  
 8 these individuals who are solely relating to  
 9 the events described in the complaint?  
 10 A. No, they're my treating physicians.  
 11 Q. Any other impact that the events that you  
 12 described in the complaint have had upon you  
 13 that you haven't already told me about?  
 14 A. Could you rephrase the question?  
 15 Q. Well, you've told me about damage to your  
 16 reputation and then you've told me about  
 17 emotional injuries, both of which you  
 18 believe arose or exacerbated problems that  
 19 you have. Is there anything else that you  
 20 haven't told me about?  
 21 A. Just your overall professional standing in  
 22 terms of marketability and people view you  
 23 differently.  
 24 Q. Any monetary damages of any kind?

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1 A. Of course. I mean, how do you quantify  
 2 upward mobility because someone views you  
 3 differently? Someone who has an advanced  
 4 degree in administration and planning, how  
 5 do you qualify or quantify something like  
 6 that because someone views you differently?  
 7 Q. Are you asking me?  
 8 A. I mean, it's a statement being made, and I'm  
 9 troubled by that because I worked very hard  
 10 for my education, and I worked and am  
 11 committed to public service.  
 12 Q. You're talking about your reputation and  
 13 damages, right? I'm asking you is there  
 14 anything --  
 15 A. You're talking monetary-wise. How do you  
 16 move on? If I understand you correctly, you  
 17 had asked if I had suffered monetarily, and  
 18 the answer is yes. You have a professional  
 19 reputation, you're as good as your word.  
 20 Q. How has that affected you monetarily?  
 21 A. I'm a relatively young guy. How do you --  
 22 people in the marketplace, if they view you  
 23 as a slug, and I don't use that word --  
 24 Q. Are you talking about the job market?

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1 A. The job market, moving up, sure, of course.  
 2 Q. Have there been any positions that you have  
 3 applied for that you didn't get because  
 4 somebody told you that you didn't get  
 5 because you were a slum landlord or  
 6 something like that?  
 7 A. Well you get into some self-esteem issues  
 8 that have affected me, going through all of  
 9 these issues here.  
 10 MR. OHLSON: I was just going to  
 11 say answer the question, that's all.  
 12 A. Yeah, there are issues there. When someone  
 13 keeps hitting you in the face how many times  
 14 can you continue to get up and get on your  
 15 feet?  
 16 Q. So you haven't actually applied for  
 17 positions for which you were turned down for  
 18 reasons relating to this lawsuit?  
 19 A. No.  
 20 Q. Aside from career advancement type monetary  
 21 damages, are there any other monetary  
 22 damages that you can articulate?  
 23 A. Sure. In the rental market, I mean, people  
 24 look at you differently. It's a small city,

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1 as you know, and if they think you're a  
 2 slumlord, "Stay away from his apartment.  
 3 You don't want to go there."  
 4 Q. Have your apartments been vacant for any  
 5 period since December of 2000?  
 6 A. There were some vacancies, but of course  
 7 they're filled now.  
 8 Q. About how long did your apartments remain  
 9 vacant?  
 10 A. I'd have to look.  
 11 Q. Can you provide that information to us?  
 12 A. Sure.  
 13 Q. Anthony Papillo, P-a-p-i-l-l-o. What I'm  
 14 doing now is I'm looking at Page 9 of your  
 15 document.  
 16 A. My understanding, he's an attorney, right,  
 17 for the Inspectional Services Department. I  
 18 don't think he's there any longer.  
 19 Q. The interrogatory asks you to provide  
 20 information relating to persons who have  
 21 knowledge of the events described in your  
 22 complaint, so I guess my question is, what  
 23 caused you to answer with Mr. Papillo's name  
 24 in that context?

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1 A. Perhaps because he signed one of the  
2 documents.  
3 Q. Anything other than that that you're aware  
4 of?  
5 A. No.  
6 Q. He is CC'd on Exhibit 5, which was the Julie  
7 Fothergill, is that -- any reason other than  
8 that that you're aware of?  
9 A. No.  
10 Q. How about Robert Conlin who's listed in D?  
11 A. He's an inspector, I believe.  
12 Q. Any knowledge of why he would have  
13 particular knowledge about the events that  
14 we described?  
15 A. No.  
16 Q. Would it be the same for E?  
17 A. Yes.  
18 Q. Who is Robert Mitchell in H?  
19 A. He's one of my plumbers, contractor. He did  
20 work on Newport Street.  
21 Q. Was he involved in the events of December 20  
22 or 23 or 27 which we've discussed?  
23 A. He was not the heating contractor, no.  
24 Comfort Heating was.

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1 Q. We talked about leaks in Ms. Williams  
2 apartment on the December 20 violation, was  
3 he the contractor who did those repairs for  
4 you?  
5 A. If in fact there was a leak. If my memory  
6 serves me correct what I did when I was  
7 served this notice by the constables that  
8 was signed by Julie Fothergill, I just  
9 called up people that I had on my Rolodex  
10 and said "Get over there and solve any  
11 problems that need to be solved," and of  
12 course I called Mitchell, based on what was  
13 served upon me, and I'm sure he went out and  
14 if there was something that needed to be  
15 addressed he did.  
16 Q. You believe he was one of the contractors to  
17 whom you gave --  
18 A. Yes.  
19 Q. Inspector Meaney listed at L, same question  
20 as before.  
21 A. Yes.  
22 Q. You don't know specifically why he's listed  
23 other than his name may have appeared on a  
24 report?

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1 A. Right.  
2 Q. The same for Tony Jones at O?  
3 A. Right.  
4 Q. Same for Sean Croak at P?  
5 A. Right.  
6 Q. Would that be the same for Paul Nally at Q?  
7 A. Yes.  
8 Q. No specific information for any of those  
9 individuals?  
10 A. No.  
11 Q. Is it your belief that Mr. Grant from  
12 Comfort Heating overheard or was in a  
13 position to hear your conversations with  
14 Mr. Joyce on December 27?  
15 A. Yes.  
16 Q. Have you discussed the incident with him  
17 since then?  
18 A. No.  
19 Q. One other document that I wanted to ask you  
20 about.  
21 (Document entitled "Re-inspection  
22 Result" marked Exhibit No. 10 for  
23 Identification.)  
24 MR. CHERNETSKY: Again, to clarify

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1 for the record, we've marked Deposition  
2 Exhibit 10, which is a three-page document  
3 with a heading "Re-inspection Result," and  
4 what I want to point out, it says Exhibit B  
5 at the top of that document, but that's  
6 unrelated to this deposition and that's a  
7 designation that was made by Counsel in  
8 another context.  
9 Q. Do you recognize this document, Mr. Smith,  
10 or this series of documents?  
11 A. Yes.  
12 Q. What do you recognize them as?  
13 A. Re-inspection results, I guess.  
14 Q. Is there anything of any particular  
15 significance to your claims about these  
16 documents?  
17 A. Just says 24-hour notice no heat and  
18 re-inspection was, at least according to  
19 Evangeline Davis, the inspector, was that  
20 the re-inspection occurred on 12/26, and of  
21 course the 26th is the day after Christmas  
22 in which the new furnace was ordered, and  
23 the attachment is three pieces and if you  
24 notice the case numbers appear to be

51 (Pages 201 to 204)



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1 different up in the right-hand corner as you  
 2 work through it.  
 3 Q. What's the significance of that?  
 4 A. Obviously it was -- I don't know. Various  
 5 cases, I guess, that she had concerning this  
 6 24-hour notice no heat and --  
 7 Q. The apartment number is also incorrect,  
 8 isn't that right? No heat complaint was in  
 9 Apartment 1 and not Apartment 3 as is noted?  
 10 A. Right.  
 11 Q. Is there significance to that beyond the  
 12 fact of that error?  
 13 A. Just obviously it's problematic to me that  
 14 there's a re-inspection when they know full  
 15 well that the furnace was ordered on the  
 16 26th, and she cites the wrong apartment  
 17 number and there's various case numbers, so  
 18 it just seems to be some sort of  
 19 recordkeeping issue that's not consistent  
 20 with what I'd consider professional  
 21 recordkeeping or recordkeeping with respect  
 22 to an inspector how they should do it.  
 23 Q. Any significance beyond the fact that there  
 24 appear to be mistakes in the reference to

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1 the apartment number?  
 2 A. No.  
 3 Q. I just want to put before you again Exhibits  
 4 No. 2 and 3, and would you agree that the  
 5 case number on Exhibit 3, at the top  
 6 right-hand corner, is 8806, and that's a  
 7 violation from December 20, 2000 and that  
 8 corresponds with the first page of  
 9 Exhibit 10 from your deposition, even though  
 10 I understand you're saying there's a  
 11 difference in the allegation here, but those  
 12 numbers at least match up, correct?  
 13 A. But referencing the second page --  
 14 Q. Let me make it simpler. Do you agree that  
 15 there was a violation number that ended 8806  
 16 on December 20?  
 17 A. For Apartment No. 3.  
 18 Q. Correct.  
 19 A. Written by Evangeline Davis, and this other  
 20 docket number that you have marked as  
 21 Exhibit No. --  
 22 Q. Right, Exhibit No. 10 in this deposition  
 23 identifies Case 8806, also Apartment No. 3,  
 24 but instead of being for the violations

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1 listed it refers to the no heat complaint,  
 2 right?  
 3 A. Right, but the no heat complaint was on the  
 4 first floor and she has a cross-reference to  
 5 the third floor.  
 6 Q. Right, I understand that. So either the  
 7 case number is wrong or the violation  
 8 reference is wrong, correct?  
 9 A. Or the inspector didn't get it right.  
 10 Q. Is there any significance to you aside from  
 11 the fact that the inspector didn't get it  
 12 right on this form?  
 13 A. No, the inspector obviously didn't get it  
 14 right. If she doesn't get the apartment  
 15 number right who knows what else she didn't  
 16 get right.  
 17 Q. Are you alleging some kind of intentional  
 18 act there or is it --  
 19 A. It would seem problematic to me if someone  
 20 is going to recommend prosecution that they  
 21 get their story right instead of prosecuting  
 22 someone when the story is not correct or  
 23 accurate.  
 24 Q. You mention that you knew Ms. Davis from

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1 prior contact. Did you have further contact  
 2 with her concerning these events in December  
 3 2000 subsequently? Subsequent to December  
 4 2000, did you ever discuss with Ms. Davis  
 5 the events of December 2000?  
 6 A. After December 20 or before?  
 7 Q. After.  
 8 A. She did a pre-rental inspection, that's the  
 9 only reason I raise that. There's a  
 10 pre-rental inspection that's set by City of  
 11 Boston Code which I was compliant with and  
 12 certificate had issued regarding compliance,  
 13 and Ms. Davis did that.  
 14 Q. That was from February of 2000?  
 15 A. Right, and that's why I just raised that  
 16 issue, because the building was in  
 17 compliance then.  
 18 Q. Did you have further contact with Ms. Davis  
 19 following, you know, in January 2001 or  
 20 since?  
 21 A. Yes.  
 22 Q. In which you discussed these incidents in  
 23 December of 2000?  
 24 A. Yes.



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- 1 Q. What did she tell you?
- 2 A. Ms. Davis was deposed with respect to some
- 3 of these violations that she had written.
- 4 Q. Would that be in Ms. Williams's lawsuit?
- 5 A. Yes.
- 6 Q. You've told us in your interrogatory answers
- 7 that Ms. Davis said that all activity and
- 8 contact was through Defendant Joyce. What
- 9 does that mean and when did she tell you
- 10 that?
- 11 A. A number of people told me that everything
- 12 was going through special operations. I
- 13 can't exactly remember the exact date or
- 14 time, but when I was trying to clear some of
- 15 these violations as written, obviously I'd
- 16 be in touch with people at 1010 Mass. Ave.,
- 17 I'd physically go there, and they'd say
- 18 "Lincoln, Kevin Joyce is handling this one.
- 19 This is his own."
- 20 Q. Do you remember the individuals who told you
- 21 that?
- 22 A. I don't. It was pretty generic in terms of
- 23 people that would say that to me.
- 24 Q. More than one person told you that but you

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- 1 don't remember who they were?
- 2 A. Right.
- 3 Q. Did Ms. Davis tell you that?
- 4 A. I believe Ms. Davis may have told me that,
- 5 yes, in one conversation.
- 6 Q. You're not sure?
- 7 A. I believe she did, yes.
- 8 Q. When was that conversation?
- 9 A. I believe it was on the telephone.
- 10 Q. What do you remember about the conversation?
- 11 A. I don't to be honest with you. There was so
- 12 much going on I was just trying to clear
- 13 everything up and she said everything's
- 14 going through the commissioner's office.
- 15 Q. I guess that's one thing that is part of
- 16 this lawsuit that we haven't really
- 17 addressed, and that is the closeouts and
- 18 re-inspections of the properties. If you
- 19 can express for me your concerns about that
- 20 issue?
- 21 A. My concerns are just the timeliness of the
- 22 closeout. I was, in my opinion, very
- 23 efficient contacting contractors once I was
- 24 provided notice that there may have been

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- 1 some issues there to resolve the matters
- 2 very quickly and expeditiously, and I guess
- 3 I expected the same from Inspectional
- 4 Services, but instead what I was getting,
- 5 like from Evangeline Davis, prosecution
- 6 recommended, and many of these issues of
- 7 alleged violations as cited were never
- 8 closed out until months after the fact, if
- 9 at all, and I was just kept in total limbo
- 10 whether or not the property was clean, with
- 11 respect to if there were any outstanding
- 12 violations, or whether I was going to have
- 13 to again, you know, go through the whole
- 14 probable cause hearings through Housing
- 15 Court, which is very time consuming and very
- 16 expensive.
- 17 Q. Did you have any probable cause hearings in
- 18 Housing Court related to the events of
- 19 December 20, 23 or 27?
- 20 A. There were notices sent to me that there
- 21 would in fact be probable cause hearings,
- 22 and I believe -- in fact, I may have written
- 23 to the clerk magistrate at that time asking
- 24 for clarity and intervention whether these

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- 1 matters were in fact closed or if they were
- 2 real, because I wasn't getting any
- 3 information out of Inspectional Services.
- 4 Q. What was the outcome of that?
- 5 A. Shortly thereafter, I believe that's when
- 6 Judge Dear had come out saying that
- 7 Inspectional Services Department was running
- 8 rough shot over landlords and that landlords
- 9 should consider some sort of class action
- 10 suit against Inspectional Services
- 11 Department.
- 12 Q. That doesn't answer my question as to what
- 13 happened to events in this case and whether
- 14 you were required to appear in court related
- 15 to this case?
- 16 A. I believe I did. Again, I would have to
- 17 look at my file, but I was trying to
- 18 basically resolve it both at 1010 Mass. Ave.
- 19 and at Boston Housing Court as well. I
- 20 couldn't get anything definitive, that's
- 21 another reason why I was troubled.
- 22 Q. It's your recollection that you actually
- 23 appeared in court related to violations of
- 24 December 20, 23 and 27 of 2000?

53 (Pages 209 to 212)

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1 A. I was noticed to appear in court for  
2 violations that were written on those dates,  
3 and they were no processed after, obviously,  
4 I was served to appear.  
5 Q. So you were served and then you made  
6 inquiries and then essentially they went  
7 away?  
8 A. Long time thereafter, right.  
9 Q. Anything else about that topic that you  
10 wanted to tell me about that you haven't  
11 already?  
12 A. No.  
13 Q. You mentioned earlier that you had  
14 conversations with Elizabeth O'Shea  
15 subsequent to these events when she told you  
16 that she was sick, that's right?  
17 A. Yes.  
18 Q. You said something in there that she said  
19 something about being sorry about the  
20 events?  
21 A. She did, yes.  
22 Q. Tell me more about that. What did she say?  
23 A. I remember clearly she -- in fact, my  
24 girlfriend was there at the time. I was out

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1 doing something in the yard and she had come  
2 to me with the rent. Her daughter had  
3 driven her over, one of the other daughters  
4 that didn't live at the property.  
5 Q. This was at Willis Street?  
6 A. Right, and I was out in the yard and she got  
7 out of the car and she says "Here's your  
8 rent, Lincoln," and I thanked her and she  
9 said "You know, I'm really sorry about  
10 everything that happened down there," and  
11 you know she just -- I think she felt badly  
12 because she and I always got along fairly  
13 well and then she went on to tell me that  
14 ultimately she was going to be passing away  
15 and that she was terminal and she didn't  
16 have much time to live, and I think she was  
17 just kind of wanted to clean the slate a  
18 little bit and was very apologetic about  
19 what happened there and with the family.  
20 Q. What do you think she was apologizing for?  
21 Was she just sorry that your relationship  
22 had experienced this difficult time or was  
23 she apologizing for some specific conduct of  
24 hers?

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1 A. I don't think she was apologizing for any  
2 specific conduct of hers. Perhaps the  
3 events and the negativeness surrounding the  
4 December 23 issue and the events that  
5 happened thereafter concerning her and her  
6 family, and I think she -- my own feeling is  
7 I think she was trying to make peace with  
8 herself, because I honestly did everything I  
9 possibly could have done for Mrs. O'Shea in  
10 that timeframe, and I think she was just  
11 attempting to make peace with herself and  
12 thereafter she told me she was terminal and  
13 she wasn't expected to live within a couple  
14 of months or whatever it was.  
15 Q. I know you don't claim any particular  
16 knowledge about this yourself, but you told  
17 me that the police department, at least, was  
18 investigating a theory as to whether one of  
19 your tenants or their son's may have been  
20 involved in your accident. Any idea whether  
21 that refers to Mr. Lima or to Mrs. O'Shea's  
22 son who made that threat against you?  
23 A. I'm sorry? I was just thinking about  
24 Mrs. O'Shea and her passing, because I

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1 honestly feel that she knew the end of the  
2 road was near and she was attempting to find  
3 peace with that, and I felt badly about that  
4 too.  
5 Q. What I was asking was, do you have any idea  
6 about whether the police and others were  
7 investigating the possibility that one of  
8 your tenants or their sons may have been  
9 involved in your accident, do you have any  
10 knowledge as to whether that refers to Mr.  
11 Lima or Ms. O'Shea's son who had threatened  
12 you or some other person besides those two,  
13 any insight in that?  
14 A. Again, it just is based on the fact that  
15 Captain Bob Dunford, who is now  
16 Superintendent Dunford, had said to me that  
17 night that they were cognizant of the fact  
18 that there were some tenant issues there,  
19 and unfortunately I was pretty much on to it  
20 and I was trying to resolve it, and  
21 Mrs. O'Shea's grandson -- after I had gotten  
22 hit, Mrs. O'Shea's grandson -- I knew  
23 something was amiss there and I was trying  
24 to personally connect the dots, and the

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1 reason why Mrs. O'Shea probably didn't let  
 2 me in that night was because her grandson  
 3 was there and her daughter was there and  
 4 none of them should have been there, but  
 5 long story short, Boston Police Department  
 6 served a warrant on the building and  
 7 arrested her grandson for drug distribution.  
 8 Q. Would that have an impact under Section 8,  
 9 if you have a tenant who is involved in drug  
 10 activity --

11 A. She wasn't a Section 8 tenant.

12 Q. Mrs. Williams was, correct?

13 A. Yes.

14 MR. CHERNETSKY: George, do you  
 15 have any questions?

16 MR. OHLSON: No questions.

17 MR. CHERNETSKY: Well, I want to  
 18 thank you, Mr. Smith, for coming down here  
 19 today. I know it was a long haul and I  
 20 appreciate your time, and with that we'll  
 21 end it.

22 (Whereupon the Deposition was  
 23 concluded at 2:34 p.m.)  
 24

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1 ATTACH TO THE DEPOSITION OF LINCOLN E. SMITH  
 CASE: SMITH vs. CITY OF BOSTON, et al

2 ERRATA SHEET

3 INSTRUCTIONS: After reading the transcript  
 4 of your deposition, note any change or  
 5 correction to your testimony and the reason  
 6 therefor on this sheet. DO NOT make any  
 7 marks or notations on the transcript volume  
 8 itself. Sign and date this errata sheet  
 9 (before a Notary Public, if required).  
 10 Refer to Page 218 of the transcript for  
 11 errata sheet distribution instructions.

12 PAGE LINE

13 CHANGE:  
 14 REASON:  
 15 CHANGE:  
 16 REASON:  
 17 CHANGE:  
 18 REASON:  
 19 CHANGE:  
 20 REASON:  
 21 CHANGE:  
 22 REASON:  
 23 CHANGE:  
 24 REASON:

I have read the foregoing transcript  
 of my deposition and except for any  
 corrections or changes noted above, I hereby  
 subscribe to the transcript as an accurate  
 record of the statements made by me.

(WITNESS) (DATE)

Page 218

1 DEPONENT'S ERRATA SHEET  
 2 AND SIGNATURE INSTRUCTIONS

3 The original of the Errata Sheet has  
 4 been delivered to Atty. George F. Ohlson,  
 5 Jr.

6 When the Errata Sheet has been  
 7 completed by the deponent and signed, a copy  
 8 thereof should be delivered to each party of  
 9 record and the ORIGINAL delivered to Atty.  
 10 James M. Chernetsky to whom the original  
 11 deposition transcript was delivered.

12 INSTRUCTIONS TO DEPONENT

13 After reading this volume of your  
 14 deposition, indicate any corrections or  
 15 changes to your testimony and the reasons  
 16 therefor on the Errata Sheet supplied to you  
 17 and sign it. DO NOT make marks or notations  
 18 on the transcript volume itself.

19 REPLACE THIS PAGE OF THE TRANSCRIPT WITH THE  
 20 COMPLETED AND SIGNED ERRATA SHEET WHEN  
 21 RECEIVED.  
 22  
 23  
 24

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1 COMMONWEALTH OF MASSACHUSETTS  
 2 MIDDLESEX, ss.

3 I, Kelly G. Patterson, a Notary Public duly  
 4 commissioned and qualified within and for  
 5 the Commonwealth of Massachusetts, do hereby  
 6 certify:

7 That LINCOLN E. SMITH, the witness whose  
 8 deposition is hereinbefore set forth, was  
 9 duly sworn by me, and that such deposition  
 10 is a true record of the testimony given by  
 11 the witness to the best of my skill,  
 12 knowledge, and ability.

13 IN WITNESS WHEREOF, I have hereunto set my  
 14 hand and my affixed notarial seal this 1st  
 15 day of March, 2004.

16  
 17  
 18  
 19 Kelly G. Patterson  
 Notary Public

20 My Commission expires:  
 21 September 20, 2007  
 22  
 23  
 24

